

THE OPPOSITION TO EARLY FEDERALISM

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PREFACE

To understand the political struggle of Washington's first administration, it is necessary to understand the colonial supremacy of the tidewater region which represented the propertied classes. These classes had made the Constitution and were to put it into effect. It was well understood that the nature of the government would not be determined until laws were passed putting it into operation. Colonial legislation had been dominated by the Byrds, Fairfaxes, Randolphs, and Rutledges; the Van Rensselaers, Schuylers, and Livingstons; the Hutchinsons, Olivers, and Bowdoins, and had been designed to benefit the propertied classes. That they should attempt to control the new government was natural. That the great inarticulate masses should dislike this control was just as natural.

The propertied classes, with the exception of the agrarian element, saw the need for strong central government to protect property and promote commerce and industry. Their efforts were bent to that end. Those who would not benefit by such a policy of centralization were found in the opposition. All the important measures of Washington's first administration were clustered around this idea. The division of opinion appears to have been over political issues. Back of these issues, however, were the conflicting theories of constitutional interpretation, the

nationalist theory of Hamilton and the states-right theory of Jefferson. Governments are operated in the interest of those who control them, and here it was simply a question of who should control the new government.

This is not a history of Washington's first administration. It is not intended to justify either contending party, nor to determine the right or wrong of the political or economic doctrines of either. It is merely an effort to show the popular sentiment with regard to the all important issues of the period. The sentiments in favor of the Federalists' program are better known; and, hence, the emphasis is placed on the opposition to it.

This controversy might well be traced on through the election of Jefferson, or the War of 1812, or even on to the Civil War or to the present time. The result, however, would be the same--the growing strength of the federal government. But the nature of the conflict, as well as the nature of the government, was fairly well determined by the end of Washington's first term, and to trace it farther would go beyond the possibility of treatment here.

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CHAPTER I

THE BASIS OF EARLY POLITICAL DIFFERENCES

It is not necessary to read far into the correspondence, pamphlets, and newspapers of the period to become aware of the powerful economic factors underlying the whole movement which resulted in the framing of the Constitution. The same conscious effort to serve certain well-defined classes is portrayed in the inauguration of the new government and the passage of the first important measures. But whether it was an effort to use these classes for political purposes, or to use the government for the benefit of these classes will probably always remain a matter of individual interpretation.

Whatever were the ostensible reasons for adopting the present government of the United States, there is no doubt but that it owed its existence to the influence and artifices of a few men, who had taken advantage of the distress of the country and who had largely speculated in the certificates given for services rendered by the most meritorious citizens.¹

Whether we accept this statement as representing the true facts or not, it expressed the feeling of a relatively large number of American citizens at the time of the inauguration of the new government.

¹ "The American Farmer" in The National Gazette, (Philadelphia), February 2, 1793.

The movement for the Constitution was originated and carried through principally by interested groups which had been adversely affected under the Articles of Confederation.

Although the problem of the inauguration of the new government was political, the impelling forces were economic. Agrarian and mercantile interests opposed each other openly and shaped their political programs in accordance with their special needs. The new State took its shape from political realists who were deeply imbued with the ideals of the rising English middle class. The opponents of the new government were economic liberals who were more inclined towards the humanitarian views of the French thinkers. The struggle and compromises between these two groups determined the final bent given the Constitution and government.² Property interests had always dominated government, and it would be unthinkable that they should not have tried to do so in these important matters.

The real division in the Constitutional Convention was between the planting South, founded on slave labor, and the commercial and industrial North, based on a wage labor system. Of course, the basis for the fundamental differences was in natural resources and climate. The South seemed destined to be the

² V. L. Parrington, The Colonial Mind (New York, 1927), 267.

producer of foodstuffs and raw materials. It was to their interest to exchange these for manufactured goods in the most favorable markets. They cared little what flag the ship flew which carried their goods or to what port it sailed. They were interested primarily in the returns. Since they were weak in numbers, they feared Congress would lay unduly high customs duties and taxes. They knew that taxation was the grand device of politics for the transferring of wealth from one class to another. They also feared tariff and navigation laws as injurious to their economic welfare.³

The North found commercial regulation, the tariff, and a strong central government to its interest. The above views are well borne out by the controversy over the adoption of the first ten amendments to the Constitution.⁴ Twelve amendments were submitted to the states for ratification. The Southern states adopted all twelve, but neither Massachusetts nor Connecticut would ratify a single one of those venerable guarantees of individual liberty.⁵ The numerous amendments proposed as conditions

³ C. A. and Mary R. Beard, The Rise of American Civilization (New York, 1930), I, 318.

⁴ Annals of Congress, I, 424-450; 660-748.

⁵ The National Gazette, March 12, 1792.

of ratification showed a very definite fear, especially in the South, of the federal government. They were simply attempts to restrain it.⁶

It was no mere theoretical discussion among lawyers that divided states, sections, and public men into hostile camps and prepared the way for the Civil War. It was the profound and soul-stirring consideration of the structure of the American Union, a searching inquiry into the philosophy of American political and social life, and in defense of these rival opinions thousands of men later dared to die.⁷

The reasons for the difference between the North and South in governmental affairs were well stated by Fisher Ames to George Minot in a letter dated November 30, 1791. The difference of opinion

...appears to me not only true, but founded on causes which are equally unpleasant and lasting. To the northward, we see how necessary it is to defend property by steady laws. Shays confirmed our habits and opinions. The men of sense and property, even a little above the multitude, wish to keep the government in force enough to govern. We have trade, money, credit, and industry, which is at once cause and effect of the other.⁸

⁶ See Chapter III on the Bill of Rights.

⁷ William McDonald, Three Centuries of American Democracy (New York, 1923), 92.

⁸ Seth Ames, The Works of Fisher Ames (Boston, 1854), I, 103-104.

The South, generally, had nothing to gain from a strong central government.

A debt-compelling government is no remedy to men who have lands and negroes, and debts and luxury, neither trade nor credit, nor cash, nor habits of industry, or of submission to a rigid execution of the law . . . the same system of rigid execution which has done wonders for us, would promote their advantage. But that relief is speculative and remote. Enormous debts require something better and speedier . . . You will agree that our immediate wants were different--we to enforce, they to relax, law.⁹

By the time of the American Revolution, two fairly distinct social and economic classes had developed. One was composed of the merchants, large landholders, and money lenders. It owned or controlled most of the wealth of the country, and its members assumed a social superiority. The other class might be termed the radicals. It was composed of the poor--small farmers, mechanics, shopkeepers, and frontiersmen. It was class-conscious and waged a relentless war against privilege. It had generally controlled during the Revolution, but by 1787 the conservatives were in power. The American Revolution was a double conflict: a struggle of colonials for local self-government and a struggle on the part of the radical element for social, economic, and political advantage.

⁹ Seth Ames, The Works of Fisher Ames, I, 103-104.

The radicals controlled many state governments and were very much disliked by the propertied-business class who thought all ills of society due to the radicals. The radicals were equally vehement against the Federalists. Hamilton, and others, thought there was too much agrarianism and too much democracy. Rhode Island was stigmatized, and Shays' rebellion was good evidence of the influence of "the mob." The Hamiltonians wanted a new government that would pay the debts, get rid of paper money, establish a sound currency, protect manufactures, distribute western lands, make treaty agreements, and in general guarantee the sanctity of private property.

The propertied classes controlled the Constitutional Convention and organized the new government. They were successful because they had the newspapers and professional classes with them. They were better organized and had better leaders as well as more resources with which to campaign. "One party in the convention was anxious to enlarge, another to abridge, the authority delegated to the general government. This was the first germ of parties in the United States. . . ."¹⁰ Despite the latter statement, the division was more fundamental and goes back to the particularism of colonial times.

¹⁰ John H. Hinton (Editor), The History and Topography of the United States of America (Boston, 1834), I, 303.

The Revolution had been more than a separation from Great Britain. It had been a civil war. Probably one-third of the population were loyalists, men of wealth and position. They naturally disliked rebellion because they had something to lose. Those who were banished from Boston were members of the old families of the commonwealth.¹¹ General Greene reported to Washington that two-thirds of the property in New York and its suburbs belonged to the Tories.¹² The propertied interests were either driven out or suppressed at the time, but by 1787 they were in power again.

In 1792 after Madison had seen what turn the Federalists intended to give to the government, he wrote to Jefferson that "It pretty clearly appears, also in what proportions the public debt lies in the country, what sort of hands hold it, and by whom the people of the United States are to be governed."¹³ It is certain that the members of Congress knew the Constitution had to be given concrete meaning by statutes and judicial decisions. The Constitution would not go into effect until there had been erected on its foundations a superstructure of

¹¹ Moses Coit Tyler, "The Party of the Loyalists in the American Revolution," in the American Historical Review, I, 31.

¹² Jared Sparks, The Writings of George Washington (Boston, 1839), IV, 86.

¹³ The Writings of James Madison (Published by Order of Congress, Philadelphia, 1865), I, 583.

government. They were awake to the great significance of early control of the government, and to the importance of establishing precedents.

This recognition of the importance of early control of the new government led to a struggle from the very beginning. Though Washington was not a politician in the modern sense, it is certain that he was aware of this effort by different groups to control the government. He wrote General Lincoln on August 28, 1788, that

. . . attempts will be made to procure the election of a number of anti-federal characters to the first Congress in order to embarrass the wheels of government and produce premature altercations in its constitution . . . but it will be advisable, I should think, for the federalists to be on their guard so far as not to suffer any secret machinations to prevail without taking measures to frustrate them . . . nothing, however, on our part ought to be left undone.¹⁴

Hamilton urged Washington to accept the presidency because the success of the new government depended upon it.¹⁵

A retrospective view of the period shows that a conflict over the nature of the new government was inevitable. The previous class struggles, the difficulty in adopting the

¹⁴ Sparks, The Writings of Washington, IX, 418.

¹⁵ Henry Cabot Lodge, The Works of Alexander Hamilton (New York, 1885), VIII, 196.

Constitution, and the very compromises necessary to secure the formation of that document all point to two rival groups.

But those who controlled the first Congress were largely the ones who had made the Constitution or had worked for its adoption in the various states. Twenty members of the first Congress had served in the Constitutional Convention; forty-four had been instrumental in the formation or adoption of the Constitution. Most of these supported Hamilton's plan. There were only seven Anti-federalists in the first Congress.¹⁶ The Hamiltonians wished to give the central government enormous powers, and their efforts to accomplish this wish became the nucleus of the whole controversy. Their program was primarily economic, capitalistic as opposed to agrarian, but the political outcome was the significant thing at the time. The whole program was a bid for the support of the financial, commercial, and manufacturing classes in return for a policy calculated to advance their interests. Had not the Constitution been born of such interests?

The opposition to the centralizing tendency must be considered.

¹⁶ C. A. Beard, Economic Origins of Jeffersonian Democracy (New York, 1915), 99.

The Boston Gazette and Country Journal¹⁷ accused the supporters of the above program of being a junto of old Tories of 1775 who were using every possible means to bring about a junction with Great Britain. The newspapers were abusing John Hancock and calling his patriotism into question in order to defeat him for re-election to the governorship. The class fight raged in all newspapers. The one quoted above¹⁸ said that it was a general opinion of citizens of the Union that a more energetic government was needed, but the question was as to whether the power should be in the hands of an individual, a few, or the many. He accused the so-called "junto" of being monarchistic and said they were defaming Hancock and Samuel Adams in order to put men at the helm of the government who "would in their ambitions despoil us of our liberties, and enforce absolute submission to their standards."

"Junius Brutus" in the same issue of the same journal said that under Governor Hancock everything went well but,

These blessings we enjoyed but for a short time, the restless Demon of Aristocracy is endeavoring to put a period to them forever, by removing Mr. H. . . . If then, my fellow citizens, you wish to preserve that liberty for which your forefathers

¹⁷ "Truth," March 2, 1789.

¹⁸ "Candor," March 9, 1789.

have died . . . if you wish to shield your children from the rude grasp of oppression, & save yourselves from the curse of thousands yet unborn, continue your manly opposition to the growing aristocracy which is engendered among you

"Anti-Crocker" in the same issue said that the Whigs of 1789 were the same Whigs of 1775, and that the attackers of Hancock wished to overthrow "our free Republican Government," and that one of them was forced (presumably during the Revolution) to flee and take refuge in a cavern, but in 1789 "villifies every advocate of Republican principles."

"Anti-Loce" replied, in the same issue,

That very few of the open, decided, or in other words, the noisy clamorous Whigs of '75 and '76 were real ones. They were wolves in disguise; and they were noisy about liberty, to conceal their plunders upon the property of the public, and the estates of the absentees. This matter was of notoriety, at the time; and the materials in the houses of many of them, will this day prove it.

The scurrilousness of these attacks was notorious.

"A Mechanic" accused the opponents of Hancock of being enemies of the Revolution or descendants of such persons. They were the aristocratic few who styled themselves the "well-born." They possessed the wealth and were "galled" because the poor mechanics and yeomanry had independence to think without their consent. Hancock was for the poor, and they wanted some one in his place who would find places of honor and profit for them and their children. If this group had prevailed from the

beginning of the Revolution, "we should have been clearly fixed in lordships and manors, the happy or miserable slaves of some duke, lord, or favored dispot." From them "we have everything to fear."¹⁹

A class distinction was clearly drawn in this election. But despite the opposing influence of the wealthy and influential, Hancock was elected Governor over Bowdoin by 6,203 to 1,803, and Samuel Adams was elected Lieutenant Governor over General Lincoln by 4,595 to 3,019.²⁰ Yet manhood suffrage was not established in Massachusetts until 1820.

We may feel sure that opinion in Massachusetts was a fair representation of that of New England generally where federalism had its stronghold. But let us turn to another section of the country. Richard Henry Lee as "The Federal Farmer" wrote that the danger in the Constitution would arise from two "very unprincipled parties." They were²¹

two fires, between which the honest and substantial people have long found themselves situated. One party is composed of little insurgents, men of debt, who want

¹⁹ The Boston Gazette and the Country Journal, March 16, 1789.

²⁰ Ibid.

²¹ Wolcott Pamphlets, Vol. III, Letter V, 37 (October 13, 1787) in Rare Book Collection, Library of Congress.

no law, and who want a share of the property of others; these are called levellers, Shayites, etc. The other party is composed of a few, but more dangerous men, with their servile dependents; these avariciously grasp at all power and property; you may discover in all the actions of these men, an evident dislike to free and equal government, and they will go systematically to work to change, essentially, the forms of government in this country; these are called aristocrats, M---ites, etc., etc. Between these two parties is the weight of the community; the men of middling property, men not in debt on the one hand, and men, on the other, content with republican government, and not aiming at immense fortunes, offices and power. In 1786, the little insurgents, the levellers, came forth, invaded the rights of others, and attempted to establish governments according to their own will. Their movements evidently gave encouragement to the other party, which in 1787, has taken the political field, and with its fashionable dependents, and the tongue and pen, is endeavoring to establish, in great haste, a politer kind of government.

Lee thought that the aristocratic elements supported the Constitution because it was the best they could get at that time, and that it would lead in the future to something more nearly to their liking.²² The efforts to rush adoption created suspicion in his mind. He wanted to know why Pennsylvania hurried it through and Boston closed its presses to discussion of the subject. Why did the men who made it rush home, forgetting propriety, and precipitate measures for the adoption of a system of their own making?²³

²² Wolcott Pamphlets, Vol. III, Letter V, 37 (October 13, 1787) in Rare Book Collection, Library of Congress.

²³ Ibid., 38.

Lee would have us believe that the things for which he stood were about the same as those which the Federalists claimed would result from a more centralized government. It was equality of classes which prompted his opposition. He wrote:²⁴

My uniform federal attachments, and the interest I have in the protection of property, and a steady execution of the laws, will convince you, that, if I am under any bias at all, it is in favor of any general system which shall promise those advantages. The instability of our laws increases my wishes for firm and steady government; but then, I can consent to no government, which in my opinion, is not calculated equally to preserve the rights of all orders of men in the community.

It is clear that Lee dreaded too much consolidation, but more evident that he believed the government was to be used to the benefit of a certain group of interests. He had long feared that the levellers, on one hand, and those unfriendly to republicanism, on the other, would produce changes "calculated to promote the interests of particular orders of men."²⁵ The country was at peace, and the state governments were able to meet all exigencies except the regulation of trade and the establishment of the credit.²⁶

²⁴ Wolcott Pamphlets, Letter I, 3 (October 8, 1787).

²⁵ Ibid.

²⁶ Ibid., 4.

Many of the defects laid at the door of the state governments were the results of the Revolution. "When we want a man to change his condition, we describe it as miserable, wretched, and despised; and draw a pleasing picture of that which we would have him assume."²⁷ The opposition of the Southern aristocracy would lead one to believe that it was based on the fear of the influence of a strong central government in economic matters.

Fisher Ames expressed a representative view of the Federalists in a letter to George R. Minot, June 23, 1789.

I am commonly opposed to those who modestly assume the ranks of champions of liberty, and make a very patriotic noise about the people. I love liberty . . . But I would guard it by making the laws strong enough to protect it. In this debate [on the removal powers of the President] a stroke was aimed at the vitals of the government, perhaps with the best of intentions, but I have no doubt of the tendency to a true aristocracy.²⁸

In 1789, after the House of Representatives had refused the resolution to establish titles, the Pennsylvania Gazette complimented Congress on its action. Titles were "only calculated to please children and fools." The writer would have liked to see honorable, worshipful, and all the other paraphernalia of

²⁷ Wolcott Pamphlets, Letter I, 5.

²⁸ Seth Ames, Works of Fisher Ames, I, 56.

aristocracy banished from use. "They smell of the corruption of European governments."²⁹

Another writer proposed "to make one sweep of the whole seed, arms, legs, teeth, and toes of aristocrats and tyranny, by knocking away all the rubbish and stuff of TITLES at one stroke, that nothing may remain to dim the reign of LIBERTY." Have no titles of Excellency, Honorable, Esquire, Reverends, M. A.'s or any others. These were the "whiteweed" which would spread over the fair fields of creation.³⁰

On titles for the President one writer burst forth:³¹

His name alone, strikes ev'ry Title dead,
If that is true, what further need be said,
And yet, consistent! Patriotic! Wise!
Inferior Titles, GRATITUDE supplies.
A monster would, sans doubt, from order spring,
And LAP-DOG DRAGON, prove a dreadful thing.

On the occasion of Washington's birthday, the Aurora advised against such expressions of gratitude towards any individual because it "possesses too strong a tincture of Monarchy to be adopted by Republicans."³²

²⁹ Philadelphia, May 13, 1789.

³⁰ "Argos" in the Gazette of the United States (Philadelphia), July 8, 1789.

³¹ Ibid., November 18, 1789.

³² Philadelphia, March 4, 1789.

Benjamin Franklin Bache was pleased to find that wherever the book of the "High Priest of Ecclesiastical Establishments and the Right Honorable Solicitor General for the claims of despotism is read, its doctrines and maxims are regarded with superlative contempt."³³ As the French Revolution became a political issue in the United States, the question of titles as well as other attributes of monarchy was attacked more fiercely.

In 1794, when a new naturalization act was passed by the House of Representatives, Giles of Virginia suggested that when naturalized, a citizen should renounce any title which he might have as well as his allegiance to the country of his birth. The New England Federalists ridiculed this idea, much to the disgust of Giles. But Giles forced their hand by calling for a vote of the yeas and nays, and they were compelled to undergo the mortification of voting for the resolution or of being held up to the nation as friends of aristocracy and lovers of titles. This controversy caused one New Englander, Dexter, to lose his seat in the House of Representatives in the next election.³⁴

³³ The Aurora, June 4, 1791.

³⁴ Richard Hildreth, The History of the United States of America (New York, 1863), IV, 532-536.

By 1789, the sentiment of the Revolution had faded, if we may believe Richard Henry Lee. "So wonderfully are men's minds now changed upon the subject of liberty, that it would seem as if the sentiments universally prevailed in 1774 were antediluvian visions, and not the solid reason of fifteen years ago."³⁵

Samuel Adams also had misgivings as to the future of the American Constitution. In August, 1789, he wrote to Richard Henry Lee:³⁶

I have always been apprehensive, that through the weaknesses of the human mind . . . or the perverseness of the interested and designing, in as well as out of government, misconstruction would be given to the federal constitution, which would disappoint the views and expectations of the honest of those who acceded to it, and hazard the liberty, independence, and happiness of the people. I was particularly afraid, that unless great care should be taken to prevent it, the constitution in the administration of it, would gradually, but swiftly and imperceptibly run into a consolidated government, pervading and legislating through all the states, not for federal purposes only, as it professes, but in all cases whatsoever; such a government would soon totally annihilate the sovereignty of the several states, so necessary to the support of the confederated commonwealth, and sink both in despotism.

One writer, in distinguishing the two groups, said the "Insurgents" were composed of those who had heretofore profited

³⁵ To Samuel Adams, August 8, 1789, in J. S. Ballagh, The Letters of Richard Henry Lee (New York, 1914), II, 496.

³⁶ Richard Henry Lee, Memoirs of the Life of Richard Henry Lee, II, 134.

by anarchy and confusion. They were of a class which had no property to lose, were much in debt, and had ambition to become leaders, but had no ideas concerning society or government. The other side he called the "Friends of Government." They had property and ability and thought themselves entitled to respect. To them those who had no property were unfitted to participate in the affairs of state. The moderate men were for law and joined the latter group and won control of the government.³⁷

Unlimited evidence could be produced, if it were necessary, to show the sectional and social cleavage inherent in the Union at the time of its formation. The belief is too general that the fiscal policy of the Federalists was something entirely new, and the sole cause of the party division which came with it. The plain facts are that the Hamiltonian policy was the culmination of the forces which had operated to bring the Constitution into existence. It is only necessary to examine the writings of the leading Federalists to see the consistency of their actions in the Constitutional Convention and later in supporting Hamilton's fiscal policy.

³⁷ The Boston Gazette and the Country Journal, December 21, 1789.

As the fiscal system of Hamilton unfolded itself, the opposition became alarmed at the efforts to strengthen the powers of the Union and did everything possible to defeat it. In the financial, more than in any other department of government, this influence was clearly visible. Here the interests of men could be attracted to, and bound up in, that of the central government. As the citizen came to regard himself as one of a nation, in the same proportion the local attachments gave way to the central attachments.³⁸ Hence, we have the basis for the conflict over the measures which inaugurated the Constitution of the United States. Sectional and class differences were inherent, but it was the policy of Alexander Hamilton which caused the opponents of a strong central government to mobilize their political forces for battle.

³⁸ George Gibbs, Memoirs of the Administrations of Washington and Adams (Edited from the papers of Oliver Wolcott, New York, 1846), I, 77-78.

CHAPTER II

HAMILTONIAN POLICY

1. The Importance of Hamilton's Program

The basis of Hamilton's policy was the sincere conviction that the great danger to the federal government lay in the hostility of the state governments to it. This, and distrust of the masses of the people, led to the desire to reduce the power of the states as much as possible. Hamilton admitted that,

for my opinion has been and is that the true danger to our prosperity is not the overbearing strength of the Federal head but its weakness and imbecility for preserving the union of the States and controlling the eccentricities of State ambition and the explosion of facetious passions.¹

Nor was this the view of Hamilton alone; it represented the ideal of the entire group which supported him in the measures which he proposed for putting the Constitution into operation.

John Quincy Adams said the Constitution "was extorted from the grinding necessity of a reluctant nation."² It was the truth

¹ Henry Cabot Lodge, The Works of Alexander Hamilton (Edition of 1896), VII, 462.

² Quoted in Martin Van Buren, Inquiry into the Origin and Causes of Political Parties in the United States (New York, 1867), 173.

of this sentiment which was at the bottom of the opposition to the Hamiltonian policy.

Hamilton's policy was an effort at law and order. It was an effort to suppress the anarchistic forces which had found their way into American society during the period of the Revolution. Each feature of his program increased the authority and strengthened the sovereignty of the national government. It was not merely a fiscal system for the new government; its political purpose was far more important. He knew that a strong financial policy could be used to knit the nation together, and thus aid in breaking down that separateness which he so much disliked. Furthermore, the individual's obligations to the nation would cause him to sacrifice more to prevent its dissolution.³

The fight over nationalism may not have been understood by the masses, but it was certainly understood by the leaders. The strength of the Constitution lay in the possibilities of its administration. The Constitution would go into effect when laws were passed to remedy the evils for which it had been founded. But individualism was deep rooted in America, and it took the Civil War to overcome it.

³ J. S. Bassett, The Federalist System (New York, 1906), 28.

The importance of Hamilton's fiscal policy is a basis of much difference of opinion. Daniel Webster said,

He smote the rock of the national resources, and abundant streams gushed forth. He touched the dead corpse of the public credit, and it sprang upon its feet. The fabled birth of Minerva from the brain of Jove was hardly more sudden or more perfect than the financial system of the United States as it burst forth from the conception of ALEXANDER HAMILTON.⁴

Hamilton's first report was more than an able piece of financing.⁵

It was the corner-stone of the Government of the United States, and the foundation of the national movement. Hamilton saw in the debt and its proper treatment the means of binding together the States by the sure tie of a common interest. This was the end for which he labored. He converted the Constitution into a living organism, founded a policy on which a great party came into being, and, above and beyond all, brought into vigorous life the national principle which has gone on strengthening and broadening through all our subsequent history.

The power wielded by the British Ministry in those days came from the influence derived from the funding system, the Bank of England, connection with the East India Company, and the ability to confer governmental favors on individuals and classes. The lesson had not been lost on Alexander Hamilton.

⁴ Daniel Webster, The Works of Daniel Webster (Boston, 1853), I, 200.

⁵ Lodge, Works of Hamilton, II, 289-290.

The advantages which he anticipated from his program were the popularity and prestige which the administration would gain, and above all, the inevitable influence upon the governmental development in this country. The Federalists might well have believed that with the passage of the Hamiltonian program they would find little difficulty in adapting the Constitution to their future needs.

In the last quarter of the eighteenth century, individualism was the popular creed of the times. Hamilton opposed this theory and formulated anew the nationalistic interpretation of history.⁶ His idea was that the two prevailing passions of men were ambition and interest and that the government might avail itself of these in the interest of the common good.⁷

Hamilton in the last *Continentalist* gives us a good picture of his ideal.⁸

There is something noble and magnificent in the perspective of a great Federal Republic, closely linked in the pursuit of a common interest, tranquil and prosperous at home, respectable abroad; but there is something proportionably diminutive and contemptible in the prospect of a number of petty states, with appearance only of union, jarring, jealous, and perverse, without any determined direction, fluctuating and unhappy at home, weak and insignificant by their dissensions in the eyes of other nations.

⁶ W. S. Culbertson, Alexander Hamilton, An Essay (New Haven, 1916), 7.

⁷ Lodge, Works of Hamilton, I, 408.

⁸ Ibid., I, 286, 287.

The United States in 1789 was becoming ready for a change from a provincial to a national stage of development, and Hamilton sought to carry that nationalism to its utmost limit. Realizing that early impressions and precedents counted for much, Hamilton, with the encouragement of Washington, set out to mold the institutions of the United States while they were still plastic. The Constitution had to be interpreted; and had the Republicans been first in office, the powers of the federal government would, no doubt, have been much abridged. The doctrine of implied powers was to be the means to a strong national government.

A controversy has been raised as to whether Hamilton was using the nation to serve his class or using his class to serve the nation. Majority opinion seems to hold that it was a struggle over nationalism.⁹

Alexander Hamilton was a great financier, but he was still greater as a nation-builder. His financial measures were intended not merely to establish the credit of the government; but to transform the whole national life; to weaken local and strengthen central authority; to nationalize business; to cement the Union of States; and to stimulate the ambition and enterprise of the people.

The Federalist party was the real founder of American

⁹ Culbertson, Alexander Hamilton, 85.

nationality.¹⁰ Hamilton laid the foundation of his scheme on the capitalistic and commercial classes, and on this foundation he built all his projects.¹¹

2. Hamilton's Personal Views

Because of his foreign birth, Hamilton was free from local prejudices and, therefore, impatient with those who did not see the need of a strong Union. Individualism demanded the largest possible amount of individual freedom, and in politics it meant a weak, decentralized government. Economically, it meant freedom in industry and trade. All these were diametrically opposed to Hamilton's theories of government.¹² Hence, we find him replacing individualism with nationalism.

Hamilton's republicanism has been very seriously questioned. In 1802, he wrote to Gouverneur Morris,¹³

Mine is an odd destiny. Perhaps no man in the United States has sacrificed or done more for the present Constitution than myself; and contrary to all my anticipations of its fate, as you know from the very

¹⁰ Ugo Rabbeno, The American Commercial Policy (London, 1895), 292.

¹¹ Ibid., 293.

¹² Culbertson, Alexander Hamilton, 28.

¹³ Lodge, Works of Hamilton, VIII, 591.

beginning, I am still laboring to prop the frail and worthless fabric . . . Every day proves to me more and more, that this American world was not made for me.

From this it is evident that Hamilton had intended to carry the concentration of power much further than he really did; and, no doubt, he was thinking of England as his model.

Contemplating the funeral oration for Hamilton, Gouverneur Morris wrote, "He was in principle opposed to republican and attached to monarchical government" ¹⁴

Jefferson reported Hamilton as saying that to purge the then existing constitution of Great Britain of its corruption and to give its popular branch equality of representation would make it an impracticable government, and that it was already the most perfect government that ever existed. ¹⁵ Jefferson, however, said that Hamilton was honest and honorable in all private transactions but so perverted by the British example as to believe that corruption was essential to the government of a nation. ¹⁶

Something of Hamilton's views on government may be drawn from the draft of a constitution which he presented to the

¹⁴ Anne Cary, The Diary and Letters of Gouverneur Morris, (New York, 1888), 456.

¹⁵ Worthington C. Ford, Writings of Thomas Jefferson (New York, 1892), I, 165-166.

¹⁶ Ibid., 166.

Constitutional Convention in 1787. According to his plan, Senators would be elected for life by electors chosen by the people, and a land qualification would be required. The executive would be chosen by electors who had been chosen by the people or by legislatures. To limit the powers still further, the governors of the states were to be appointed by the federal government.¹⁷ Hamilton's dream of a leviathan state was already formed.

When viewed in the light of an attempt at law and order against the anarchistic forces of the time and as a necessary preliminary to the establishment of a great nation, Hamilton's efforts appear in their most favorable light. But the facts are susceptible to another interpretation. A knowledge of the economic struggle between the farmers and business groups for control of the government reveals Hamilton as the statesman of the business economy.¹⁸ He was a political realist.

To accomplish his latitudinarian scheme, Hamilton attempted to fit the Constitution to his own purposes. Nicholas P. Trist, who was a close friend of Madison, and later private secretary to President Jackson, quotes Madison as saying,¹⁹

¹⁷ Lodge, Works of Hamilton, I, 331-333.

¹⁸ Parrington, The Colonial Mind, 294.

¹⁹ Van Buren, Inquiry into the Origin and Causes of Political Parties in the United States, 206-210.

I abandoned Colonel Hamilton,--or Colonel Hamilton abandoned me,--in a word we parted,--upon its plainly becoming his purpose and endeavor to ADMINISTRATION the government into something totally different from that which he and I both knew perfectly well had not been understood and intended by the convention which framed it, and by the people who adopted it.

The above is the result of mature reflection of Madison after time had mellowed down the struggle of their youth and given perspective to the whole question.

Hamilton's political philosophy led logically to the leviathan state. The test of its efficiency lay in its ability to put down unrest and to protect the privileges of the minority against the majority.²⁰ In the Constitutional Convention he had been the chief advocate of the coercive state. Having failed to carry his program there, he was determined to make the government under the new Constitution approximate his ideal as nearly as possible. He did not seem concerned whether the people wished such a government or not. To make his measures more palatable to the masses, he clothed them with ethical justifications. But these were not sufficient to conceal the underlying motive which was always to minimize the powers and privileges of the agrarian groups, as well as to weaken the individual states.

²⁰ Parrington, The Colonial Mind, 301.

But the real problem was whether the emphasis should be put on the power and splendor of the state or on the welfare of the individual. In championing a strong government built on the influence of the wealthy classes, Hamilton became the prophet of a capitalistic nation.

Hamilton's name is invariably linked with the government's early financial policy. It is true that the early precedents established by Hamilton have had vast influence on all succeeding financial and political history. But he has another significance equally as true. He saw the meaning of the industrial revolution for America before it arrived and exerted his energy in developing it. In fact, our industrial system still cherishes his ideals.

Much speculation took place during Hamilton's official life, but careful study of all his papers does not reveal any trace of speculation on his part. Professor Beard acquits him of all such charges.²¹ While Hamilton's personal integrity may not be questioned, he sometimes descended from the dignity becoming to his official position to take part in things which marked him as a politician as well as a statesman.²²

²¹ C. A. Beard, Economic Interpretation of the Constitution, (New York, 1913), 106-107.

²² Henry Cabot Lodge, Alexander Hamilton (Boston, 1898), 143-144.

In 1802, after the Republicans were in office, Hamilton wrote:²³

What will signify a vibration of power if it cannot be used with confidence or energy, and must be again quickly restored to hands which will prostrate much faster than we shall be able to rear under so frail a system? Nothing will be done until the structure of our national edifice shall be such as naturally to control eccentric passions and views, and to keep in check demagogues and knaves in the disguise of patriots.

At a time when the philosophy of skepticism of Hobbes and Locke was much in vogue, it is not surprising to find Hamilton sharing with them the low opinion of mankind. His writings in 1775, while still a student at King's College, reflected this philosophy to which he clung throughout life. While Hamilton's economic policy was important, it was in the realm of statesmanship in carrying out his philosophy of government that he was great. From his desire for strong government and his interest in the industrial and commercial classes, it is easy to see how he arrived at the idea of allying business interests with the new government.

3. Hamiltonianism and Classes

In politics and government Hamilton's cardinal principles were "strength" and "order." An intimate union of the states

²³ To Gouverneur Morris, in Lodge, Works of Hamilton, VI, 536.

effected through common interests was his means to promote strength, and by the regulation of finances public order was to be established. To carry out his program, it was necessary to have a strong party in support of the government. This was not merely incidental.²⁴

Hamilton's scheme was to create a strong and permanent class throughout the country, bound to the government by personal, pecuniary interests. His immediate object was to bring to his aid a class already in existence, that which controlled the capital of the country. That done, the success of the new government would be assured, and its powers might then be much extended. He had failed to introduce a class influence into the Constitution by limiting suffrage for the President and Senators by a property qualification. But by his policy he now hoped to bind the existing wealthy classes to the government and thus assure to property a powerful influence upon the government.²⁵

Although Hamilton may have shaped the early policy of the United States government towards industry, he did not originate the demand for governmental aid to industry. As early as January 17, 1889, the Connecticut Courrant and Weekly Intelligencer

²⁴ Lodge, Alexander Hamilton, 89.

²⁵ Ibid., 90.

could write that "A passion for encouraging American manufactures has at last become fashionable in some parts of the country." In fact, the newspapers of that day are full of arguments both for and against government aid for industry. Hamilton's papers reveal that he was constantly receiving letters and petitions for governmental encouragement to industry. These facts are sufficient to show where the demand came from and why his attentions were turned to the industrial rather than to the agrarian classes.

Hamilton based the hope for success of his program on:²⁶

1. the enthusiasm aroused by his policy;
2. the confidence and interest of the capitalists and merchants;
3. the direct money gains to certain states in the success of assumption of debts; and
4. the powerful body of men in and out of Congress who desired strong central government.

His policy appealed especially to a small but powerfully influential group of men whose opinions had long been well known.²⁷

On the other hand, there appears an ill-defined sentiment cherished by a majority of the people, but in a party sense ill-regulated and incoherent. This sentiment turned longingly back to the days of the Confederacy and sovereign states. It was democratic and looked with suspicion on everything which tended

²⁶ Lodge, Alexander Hamilton, 120.

²⁷ Ibid., 128.

to lend strength or dignity to the central government.²⁸ This was the agrarian element, and it asked nothing from the government except the maintenance of order, protection in its civil and political rights, and the management of public affairs in the spirit of justice.

While the agrarian elements asked the Congress for nothing, and very properly got nothing, the commercial and manufacturing classes annually appealed to the Secretary of the Treasury and to Congress for aid and encouragement.²⁹ Hamilton knew the Constitution and the new government had been created because of the demands of these interests, and he wisely attempted to bring them to the side of the government by appealing to their interests. His financial measures were intended for that purpose.³⁰

Hamilton's effort while in the cabinet was to attach to the federal government the vital interests of the influential groups of the country. This allegiance was to be won through the purse. When Congress called upon him for a report on the state

²⁸ Lodge, Alexander Hamilton, 128.

²⁹ "Hamilton's Papers and Petitions to Congress" (MSS.) in Rare Book Collection, Library of Congress.

³⁰ Woodrow Wilson, A History of the American People (New York, 1906), III, 110.

of finances, he very eagerly evolved a plan that would simultaneously "reestablish the national credit, gain the support of the moneyed classes, and draw the nation together into a unity resting upon a strong national government."³¹ His measures served to bring into the national arena the conflict between two schools of thought: the debtor-farmers, on the one hand, and the merchants, manufacturers, bondholders, lawyers, and clergy on the other. This alignment had existed at least as far back as the American Revolution.³²

In 1792 a writer spoke of the followers of the Hamiltonian party as those³³

Who from particular interest, from natural temper, or from habits of life, are more partial to the opulent than to the other classes of society; and having debauched themselves into a persuasion that mankind are incapable of governing themselves, it follows with them of course, that government can be carried on only by the pageantry of rank, the influence of money and emoluments, and the terror of military force.

Such men, no doubt, hoped through administration to establish a government in control of the "rich and well-born."

³¹ F. A. Ogg, Builders of the Republic (Pageant of America, New Haven, 1921), VIII, 183.

³² Ibid., 187.

³³ National Gazette, September 27, 1792.

The opposing element consisted of those³⁴

. . . who believing in the doctrine that mankind are capable of governing themselves, and hating hereditary power as an insult to the reason and an outrage to the rights of man, are naturally offended at every public measure that does not appeal to the understanding and to the general interests of the community, or that is not strictly conformable to the principles, and conducive to the preservation of republican government.

The same writer said that the Republican party was conscious that the masses of every part of the Union were with them both in interest and in sentiment. He said that they should promote a general harmony by burying every distinction except that between enemies and friends of republican government. Strategem is sometimes more powerful than numbers, but he believed that the superior numbers, the decided sentiment, and the practice of standing together in common causes might bring about the administration of the government in the spirit and form as approved by the great body of the people.³⁵ It is only necessary to recall that it was only eight years later that such a reversal of policy did come.

Fisher Ames divided the opposition to the Hamiltonian policies into three groups: the Anti-federalists who were very weak;

³⁴ National Gazette, September 27, 1792.

³⁵ Ibid.

the dupes of local prejudices who feared Eastern power, monopolies, and the navigation acts; and, lastly, the violent Republicans. The latter were "new lights" in politics who would make not the law, but the people, king. They would have the government all checks and were more solicitous to establish some high-sounding principle of republicanism than to protect property, cement the Union, and perpetuate liberty. He said the republicanism of the aristocracy of the Southern "nabobs" feared the destruction of mobs, but that they accused the Eastern people of being despotic in principles while they themselves were the defenders of liberty.³⁶

Even Washington was skeptical about the masses.

I confess, however, that my opinion of public virtue is so far changed, that I have my doubts whether any system, without the means of coercion in the sovereign, will enforce due obedience to the ordinances of the general government; without which everything else fails.³⁷

To him, those who opposed strong and energetic government were "narrow-minded politicians."³⁸

³⁶ Ames, The Works of Fisher Ames, I, 61.

³⁷ Worthington C. Ford, The Writings of Washington (New York, 1891), II, 133.

³⁸ Ibid., 162: To Alexander Hamilton, July 10, 1787.

A good local illustration of this class distinction is reported by John Quincy Adams from Boston. At a town-meeting they were trying to reform the police, and a heated argument ensued between the two factions. On the final vote "seven hundred men, who looked as if they had been collected from all the jails of the continent, with Ben. Austin like another Jack Cade at their head, outvoted by their numbers all the combined weight and influence of wealth and abilities and of integrity, of the whole town." From this young Adams "derived some instruction," and above all was confirmed in his "abhorrence and contempt of a simple democracy as a Government."³⁹

The next day after the above incident, Benjamin Russell, publisher of the Columbian Centinel, met Austin on the street and beat him. Several hundred of Austin's followers assembled and paraded the streets for three hours with clubs threatening to pull down the printing shop and the houses of the aristocrats "who wished to enslave the people."⁴⁰

"A Farmer" warned the American rulers, those living upon the spoils of their fellow citizens, "or basking in the sun-

³⁹ Worthington C. Ford, The Writings of John Quincy Adams (New York, 1913), I, 113.

⁴⁰ Ibid., 114.

shine of court-favor," that they would find in the people a spirit of resistance which would not submit to being oppressed. They might waste the public money and the evil would be only temporary; but when they assumed principles injurious to the rights of the people, liberty would be but a name.⁴¹

Hamilton appealed to the wealthier classes to put his program into operation. It was an economic program, but it was the stuff out of which a strong government could be made. The realization of this fact was the basis of the struggle over each successive measure as Hamilton presented it. Before the presentation of this program, there were no well defined party lines, but with the introduction into Congress of these measures, party lines began to be drawn. While this was true, the struggle over ratification of the Constitution had set the stage for the political drama which was to follow.

⁴¹ National Gazette, March 1, 1792.

CHAPTER III

THE CONSTITUTION AND THE BILL OF RIGHTS

1. Ratification of the Constitution

When the convention had completed the Constitution, it was sent to the Congress with the request that it be transmitted to the states for ratification by the several state conventions. All the state legislatures except Rhode Island called conventions as requested. In the election of delegates to the conventions, and especially in the conventions, probably the bitterest political battles in American history were fought. "And there ensued such a war of pamphlets, broadsides, caricatures, squibs, and stump speeches, as had never yet been seen in America."¹ Anonymous writers poured forth opinions with mighty conviction. Some of these, especially THE FEDERALIST, are still considered classical analyses of the Constitution.

Some of the objections urged against the Constitution were that²

1. it put an end to the venerable Congress;
2. it set up an aristocracy;

¹ John Fiske, The Critical Period of American History, 1783-1789 (New York, 1888), 312.

² C. P. Patterson, American Government (New York, 1929), 94-95.

3. it was proposed, and was to be ratified by an unconstitutional process;
4. it contained no bill of rights;
5. it granted unlimited power of taxation to Congress in which the vote was by individuals, and not by states;
6. it gave too much power to the federal courts;
7. it provided for the payment of salaries of Congressmen from the national treasury;
8. it delegated too much power to a government too remote from its constituents;
9. it set aside land for a Capital over which the federal government was absolutely supreme;
10. it provided for a standing army over which the President was to be commander-in-chief;
11. it did not require the recognition of the existence of God, or religious tests for candidates for federal offices.

The framers of the Constitution were also attacked. Robert Morris and John Dickinson were criticized for having opposed the Declaration of Independence and then helping to frame a new government. And James Wilson, "making speeches in behalf of this precious constitution, and trying to pull the wool over people's eyes and persuade them to adopt it. Who was James Wilson, anyway? A Scotchman, a countryman of Lord Bute, a born aristocrat, a snob, a patrician, Jimmy, James de Caledonia." Hamilton and Madison were mere boys, and Franklin, an old dotard, a man in his second childhood. And for Washington, he was a good soldier, but what did he know about politics?³

³ Fiske, Critical Period, 312-313.

While the Constitution was up for ratification in Virginia, Madison wrote Hamilton that great opposition had developed against the judicial department. They opposed the appellate jurisdiction and the extension of its jurisdiction to causes between citizens of different states. They did not like the "retrospection to cases antecedent" to the formation of the Constitution, and he said the British debts and the Fairfax-Indiana Vandalia Company claims were brought to view with all the color the imagination could give them.⁴ Madison's letters to Hamilton show that he was not at this time in favor of the amendments of which he later became the sponsor.

According to Richard Henry Lee, it was easy at that moment for a few influential men in the community to summons conventions and, by persuading the people that they would make changes for the better, to take from them a part of their power. He said:⁵

But when power is once transferred from the many to the few, all changes become extremely difficult; the government in this case being beneficial to the few, they will be exceedingly artful and adroit in preventing any measures which will lead to a change; and

⁴ "Alexander Hamilton Papers" (MSS.), VII, Richmond, June 20, 1788.

⁵ "The Federal Farmer" (October 12, 1787), in Wolcott Pamphlets, III, Letter IV, 34.

nothing will produce it, but the great exertions and severe struggles on the part of the common people. Every man of reflection must see, that the change now proposed, is a transfer of power from the many to the few, and the probability is, the artful and ever active aristocracy, will prevent all peaceable measures for change, unless they shall discover some favorable moment to increase their own influence.

Lee did not believe it was wise to ratify the Constitution in the faith that amendments would be made when experience had shown the necessity for them.

The Constitution was ratified by Virginia, June 20, 1788, but the fight was not ended. During the latter half of 1788, and the first months of 1789, the Virginia Independent Chronicle carried a score or more of letters signed "Decius." These were attacks on that bitterest of foes of federalism, Patrick Henry. But they brought a mighty storm of protests and defenses, and the fight raged on.

In the eleven states which ratified the Constitution before the new government went into effect, the date and vote in each convention was as follows:⁶

Delaware	December 4, 1787	unanimously
Pennsylvania	December 13, 1787	46 to 23
New Jersey	December 19, 1787	unanimously
Georgia	January 2, 1788	unanimously
Connecticut	January 9, 1788	128 to 40
Massachusetts	February 6, 1788	187 to 168

⁶ Hildreth, History of the United States, IV, 26.

Maryland	April 28, 1788	63 to 12
South Carolina	May 23, 1788	149 to 73
New Hampshire	June 21, 1788	57 to 46
Virginia	June 25, 1788	89 to 79
New York	July 26, 1788	30 to 27

With a very limited suffrage and the preponderance of wealth and political influence supporting the Constitution, it is astonishing that it was carried by such narrow margins. North Carolina entered the Union on November 21, 1789, with Rhode Island and Vermont following respectively on June 16 and October 27, 1790.⁷

The small states realized they had gained all they could hope for and were eager to close the question. Hence, they, with the exception of Rhode Island, rushed ratification. In the large states the battles were hard fought. In Massachusetts, New York, and Virginia probably the most terrific political battles of state history were fought.

In Massachusetts the fight was wealth and culture against the agricultural element and the laborers.⁸ The convention had taken care to checkmate the influence of Gerry by denying him

⁷ Jonathan Elliot, The Debates in the Several State Conventions on the Adoption of the Federal Constitution (Philadelphia, 1907), I, 333-337.

⁸ Ibid., II, 16.

the privilege of debate. They were only able to win then by buying off Hancock and Samuel Adams.⁹

In Virginia, the parties were fairly evenly divided, and this accounts for her attitude after the year 1789. In the opposition were Mason, Monroe, and Patrick Henry. Madison and Marshall with the aid of Wythe, Pendleton, Washington, and Randolph bore the brunt of the fight for adoption. Jefferson was in France but held the balance in his hand by controlling the opposition. In May he wrote his friends to ratify with amendments, and on June 25 ratification was carried.¹⁰

The fourth of July witnessed a great spectacle. In Philadelphia the parade was a mile and a half long. A car with ten white horses was surmounted with a symbol of the Union, supported by thirteen columns, three of which were left unfinished. Ten ships with flags displayed from the mast-heads carried in golden letters the names of the ratifying states. In Albany the opponents of ratification made a bonfire of the handbills announcing Virginia's ratification, and the day ended in riot. Boston went wild over the action of Virginia, but in Rhode

⁹ James Schoulder, History of the United States of America under the Constitution (New York, 1880), I, 59-68.

¹⁰ Ibid., 63-66.

Island a mob of the opposition broke into Providence on the fourth and forced the authorities to omit from their dinner programs their intended toasts to the "Nine States."¹¹

Under Clinton New York stood defiant until New Hampshire and Virginia gave way. This, and not the weight of argument, carried New York. She would have been hemmed in. On July 26 she ratified the Constitution by a vote of 30 to 27.¹² In Rhode Island and North Carolina the inflationists held power and they were not yet willing to give way to federal control.¹³

To go at length into the ratification by each state would be an endless task and an unnecessary one for the present purpose. But even a brief review of the struggle should give perspective to the fight over the inauguration of the new government.

When one remembers the general disfranchisement of the masses in those days, the difficulty of ratification seems all the more surprising. Professor Beard has estimated that only about one-fourth or one-fifth of the adult white males participated in the elections of delegates to the conventions.¹⁴ The

¹¹ Schouler, History of the United States, I, 67-68.

¹² Ibid.

¹³ Ibid., 69.

¹⁴ Beard, Economic Interpretation of the Constitution, 250.

moneyed classes knew the benefits to be derived from a strong central government and did not hesitate to spend money in its behalf. Marshall later wrote that, "had the influence of character been removed, the intrinsic merits of the instrument would not have secured its adoption. Indeed, it is scarcely to be doubted that, in some of the adopting states, a majority of the people were in opposition."¹⁵

2. The Bill of Rights

The amendments presented by the various state conventions as the conditions upon which they ratified the Constitution, inasmuch as they became a part of the Constitution, have proven the most powerful bulwarks in behalf of individual liberty. Yet it is interesting to see the efforts in Congress to defeat them, even though they only do more definitely what the Constitution on the whole purported to do. The modes of political thinking among the people of the time made the omission of the bill of rights a real grievance and more especially a very forcible popular objection.

¹⁵ John Marshall, The Life of George Washington (Philadelphia, 1845), I, 127.

The above idea is well expressed by a writer in the National Gazette. "As long as the States of America continue united under the present form of government, the PEOPLE will have to lament the want of a bill of rights, which would clearly and unequivocally dictate to the legislature its duty, and to the people their rights."¹⁶

The spirit of the Constitution is that the supreme power resides in the people and that the people retain all powers not expressly granted to the federal government.¹⁷

But a government of the extent and in the situation of the United States, being destitute of a clear, explicit declaration of the rights of the people, the honor of serving the State, and of being useful to its Citizens, will give place to the most sordid views of private emoluments, and laws which should be made to promote the GENERAL WELFARE, will be perverted to serve the ambition and avarice of the few. Ambassadorships, and places of profit will be created for the well-born. Palaces will be erected, and we shall be told that it is for the honor of government that all its officers and their dependents should be supported in a style of ostentation, parade and luxury, however oppressive and injurious to their fellow-citizens. Two parties will exist, the one enjoying every comfort of life without labor; the other languishing in penury, submitting to every insult and injury. And the people unprotected by an explicit declaration of rights, ambitious men will, by artifice and sophistry, explain away every privilege of the government, in order to render it subservient to their own private purposes.

¹⁶ "Farmer," February 23, 1792.

¹⁷ National Gazette, February 23, 1792.

The fact that seven states ratified the Constitution with one hundred and twenty-four amendments, and that the minorities of several other states proposed amendments,¹⁸ is sufficient evidence that the majority of the delegations to the state conventions were not satisfied without some further safeguards to their liberties. Yet it is a curious fact that with all the clamor raised against the Constitution that these amendments would not have changed the fundamentals of the Constitution.

In the Virginia constitutional convention, Madison had not favored the amendments, as is shown by his letters to Hamilton. But when it came to the election for places in the new Congress, Patrick Henry was able to keep him from going to the Senate, and Madison was able to win a place in the House of Representatives only after promising faithfully to support the amendments. After Congress assembled, unfavorable murmurings began to arise in Virginia to the effect that Madison had done nothing to redeem his promise.¹⁹ But this was not to be the case for long.

¹⁸ American Historical Association Report, 1886, II, 166.

¹⁹ Bassett, The Federalist System, 22.

On June 8, 1789, Madison moved in the House of Representatives to go into a committee of the whole to consider the amendments, and the question was brought into the forum of debate. Goodhue of Massachusetts thought, "it is the wish of many of our constituents, that something should be added to the Constitution, to secure in a stronger manner their liberties from the inroads of power."²⁰ White of Virginia hoped they would not dismiss the question, "because I think a majority of the people who ratified the Constitution, did it under the expectation that Congress would, at some convenient time, examine its texture and point out where it was defective in order that it might be judiciously amended."²¹ Page of Virginia thought Congress did not intend to consider the question seriously. He thought they could have finished the matter while they were debating on going into a committee of the whole.²²

Vining of Delaware voiced the opposition sentiment in general when he said he did not see the expediency of proposing

²⁰ Annals of Congress, I, 426.

²¹ Ibid., 428.

²² Ibid., 429.

amendments, that the way to quiet the public mind was to pass proper laws. Delaware had ratified the Constitution unanimously and without amendments, and he felt himself bound to oppose the amendments as "either improper or unnecessary." He thought a bill of rights unnecessary in a government which derived its powers from the people.²³

But Madison did not intend that the question should be defeated despite the display of a powerful opposition. In this matter he was not so compromising as usual. He said that,²⁴

It cannot be a secret to the gentlemen in this House, that, notwithstanding the ratification of this system of Government by eleven of the thirteen United States . . . yet still there is a great number of our constituents who are dissatisfied with it; among whom are many respectable for their talents and patriotism, and respectable for the jealousy they have for their liberty

He thought it especially advisable to add the amendments to encourage Rhode Island and North Carolina to come into the Union.

Madison believed the great mass of people who opposed the Constitution did so because it lacked "effective provisions

²³ Annals of Congress, I, 429.

²⁴ Ibid., 432.

against the encroachments on particular rights," and did not furnish the accustomed safeguards against the executive.²⁵

Gerry of Massachusetts said Congress was afraid to exercise its powers, which the welfare of the state required, "lest a jealousy of our powers be the consequence." But why the timidity? Because "we see a great body of our constituents opposed to the Constitution as it now stands, who are apprehensive of the enormous powers of the Government." He said that the Constitution was ratified in full confidence that the amendments would be given due consideration and asked for their candid consideration at this time.²⁶

The debate on going into a committee of the whole for a consideration of the amendments drew so much opposition that Madison decided to withdraw the motion and then moved that a select committee be appointed to consider and report on the amendments.²⁷ But Gerry and others opposed this special committee. They knew too well that this was a good way to sidetrack the question. "Our fellow-citizens are possessed of too much discernment not to be able to discover the intention of Congress by such procedure . . . I hope there is no analogy

²⁵ Annals of Congress, I, 446.

²⁶ Ibid.

²⁷ Ibid., 432.

between federal and Punic faith."²⁸ It is evident that the opposition was trying to delay action, with the possible intention of never passing the amendments at all. It is difficult to understand why nine state delegations proposed amendments to the Constitution if they did not intend, or at least expect, that Congress would consider them.

Richard Henry Lee, who was in the Senate at the time, did not think they had much chance to pass even though he did everything he could to pass them. "In fact, the idea of subsequent amendments, was little better than putting oneself to death first, in the expectation that the doctor, who wished our destruction, would afterwards restore us to life." He further believed that the great danger was from a "tendency to a consolidated government, instead of a union of confederated States."²⁹

Livermore of New Hampshire expressed the attitude of most of the New England Congressmen, and many of those from the Middle States, when he said that it could not be told until the government was organized what amendments were needed.³⁰

²⁸ Annals of Congress, I, 446.

²⁹ Lee, Memoirs, II, 98.

³⁰ Annals of Congress, I, 449-450.

But it is difficult to see, because of the nature of the amendments, how they could have been objectionable, or how the operation of the government for a short time could prove or disprove their need. It appears that the opposition were only trying to delay them in the hopes that they would never be passed. What was back of all the wrangling over small details was the question of how much power the federal government should be allowed to assume. The beneficiaries of a highly centralized government opposed the amendments. This is fairly well shown by the fact that of the twelve amendments finally submitted, every state south of Pennsylvania, except Georgia, ratified all of them, while Massachusetts and Connecticut, the strongholds of federalism, did not ratify a single one.³¹ After all this debate Madison withdrew his last motion, and it was finally agreed to refer the resolutions to a committee of the whole.³²

On July 21, 1789, Madison again moved to go into a committee of the whole to consider the amendments. Much debate followed, and finally Ames of Massachusetts carried a motion to refer the amendments to a special committee, after a motion

³¹ National Gazette, March 12, 1792.

³² Annals of Congress, I, 449-450.

had carried to discharge the committee of the whole. In the debate Gerry accused the opposition of attempting "to smother the business." Tucker of South Carolina asked, "Will it answer any one good purpose to slur over this business, and reject the propositions without giving them a fair chance of a full discussion?"³³ The main argument of Madison and his supporters was that the amendments would tend to reconcile those who were dissatisfied with the new Constitution and government.

The special committee was composed of one member from each state as follows: Vining, Madison, Baldwin, Sherman, Burke, Clymer, Benson, Goodhue, Baudinot, and Gale.³⁴ It will be noticed that Vining, the most ardent opponent of the amendments, was made chairman of the committee instead of Madison who was sponsoring them. On July 28 Vining reported from the committee, and the report was tabled.³⁵

On August 13 Lee of Virginia moved to consider the report, and another debate took place. Sedgwick of Massachusetts thought it not the proper time when they had so much other business to consider. Madison thought otherwise.³⁶ After a

³³ Annals of Congress, I, 660-664.

³⁴ Ibid., 664.

³⁵ Ibid., 672.

³⁶ Ibid., 704.

long and useless debate, the motion was carried. There was much discussion as to where the amendments should be placed. Clymer of Pennsylvania wanted them at the end, that the body might "remain a monument to those who made it; by a comparison, the world would discover the perfection of the original, and the superfluity of the amendments."³⁷ He did not consider any of the amendments essential.

Gerry had refused to sign the Constitution, and in Congress he later took a consistent stand against the efforts to increase the powers of the federal government. In the debate on the representation amendment, Ames wished to keep the House small, and Gerry accused him of wishing to establish the dignity of the individuals of the House at the expense of the liberties of America.³⁸ In referring to what is now the first amendment, Sedgwick thought it would make Congress "appear trifling in the eyes of their constituents," and, furthermore, "it is derogatory to the dignity of the House to descend to such minutiae." He thought the Constitution might have gone to great length, as to say that a man should have a right to wear his hat, "but he would ask the gentleman [Gerry] whether he thought it

³⁷ Annals of Congress, I, 710.

³⁸ Ibid., 725.

necessary to enter these trifles in a declaration of rights
" ³⁹ Gerry said that he had always heard that the govern-
 ment was a democracy but perhaps he was misled and that the
 honorable gentleman (Stone, Maryland) was right in "distinguishing it by some other appellation; perhaps an aristocracy was a term better adapted to it." ⁴⁰

Page of Virginia was trying to speak on the question, but the opposition interfered so by calling for the question that he caustically remarked that he "would speak if he were heard only by the chair." ⁴¹ Ames moved to discharge the committee from further consideration of the subject. A hot debate followed, and Gerry called for the yeas and nays, after which Ames withdrew his motion. ⁴²

Despite all efforts of the opposition, the amendments were debated and, from the great number before the House, seventeen were passed. The Senate cut the number down to twelve, and only ten of these were finally ratified by the states. Of the two amendments refused, one fixed the ratio of representation, and

³⁹ Annals of Congress, I, 731-732.

⁴⁰ Ibid., 742.

⁴¹ Ibid., 743.

⁴² Ibid., 748.

the other fixed the salaries of Senators and Representatives.⁴³ In the beginning there was very little sentiment in Congress for the amendments and considerable direct opposition. But for Madison's great statesmanship in this case, it is highly probable that no bill of rights would have been added to the Constitution.

3. Differences of Viewpoint

That North Carolina, New York, and Virginia ratified the Constitution with a total of seventy-eight amendments and a bill of rights each would indicate some fundamental differences in viewpoint. Of course, the amendments were usually the devices used by the Federalists to secure ratification. If we consider the men who wrote these amendments, we can hardly call their work mere child's play. But if we consider the amendments mere devices to secure adoption of the Constitution with no intention on the part of the makers to carry them out, we lay a heavy indictment upon our early statesmen. Van Buren says that two-thirds of the House were opposed to the amendments made.⁴⁴

⁴³ Annals of Congress, I, 748.

⁴⁴ Van Buren, Inquiry into the Origin and Causes of Political Parties in the United States, 195.

On the representation amendment Ames moved to reduce the representatives to one for each 40,000 instead of 30,000. This was in direct violation of the second amendment as presented by the Massachusetts convention and brought a great protest in that state. It was contended that this would lessen the weight of the branch of Congress which was directly responsible to the people.⁴⁵ It was said by several papers in Massachusetts that Ames was too opinionated to follow his instructions. Of course, there was no precedent that a representative must follow instruction in Congress, but the amendments had been made in good faith that Congress would enact them. Ames thought Madison sought popularity by sponsoring the amendments, but that they would "stimulate the stomach as little as hasty-pudding."⁴⁶ John Quincy Adams said the amendments in Massachusetts were used as a device by the enemies of the federal government to bring it into disrepute and that it was never intended that they should be seriously proposed to Congress.⁴⁷

Samuel Adams in a letter to Gerry expressed his reason for desiring amendments. The best people, he said, were anxiously

⁴⁵ The Boston Gazette and the Country Journal, September 7, 1789.

⁴⁶ Ames, Works of Fisher Ames, I, 54.

⁴⁷ Ford, The Writings of John Quincy Adams, I, 51.

expecting them.

They wish to see a Line drawn as clearly as may be, between the federal Powers vested in Congress and the distinct Sovereignty of the several States upon which the private & personal Rights of the Citizens depend. Without this distinction there will be Danger of the Constitution issuing imperceptibly and gradually into a consolidated Government over all the States"48

Richard Henry Lee was surprised to find that in the Senate it was proposed to postpone consideration of the amendments until experience had shown their necessity, "as if experience were now necessary to prove the propriety of those great principles of Civil liberty which the wisdom of Ages has found to be necessary barriers against the encroachments of power in the hand of frail Man!" He wrote Patrick Henry that the English "language has been carefully culled to find words feeble in their nature or doubtful in their meaning."⁴⁹

The states ratifying the Constitution with amendments were Massachusetts, South Carolina, New Hampshire, North Carolina, Rhode Island, New York, and Virginia. The minorities in Maryland and Pennsylvania proposed amendments.

⁴⁸ H. A. Cushing, The Writings of Samuel Adams (New York, 1908), IV, 332.

⁴⁹ Ballagh, Letters of Lee, II, 499.

One notes with interest the vote upon the best known of these amendments. Thus, all seven states, ratifying with amendments, voted for restriction of federal control over the election of senators and representatives and of direct tax levies. New York failed to support No. III, the reservation to the states of non-delegated powers, while South Carolina, in anticipation of later controversies voted against No. IV, relating to the jurisdiction of the federal courts. Neither South Carolina nor Rhode Island approved the method of apportioning representatives, and Virginia joined South Carolina in opposing the prohibition of commercial monopolies.⁵⁰

From the above amendments, as well as the ones mentioned only occasionally, it is apparent that the main efforts were to protect the individual and his property from the encroachments of the federal government. As completed, the amendments were a guarantee of personal liberty and a slight concession to state sovereignty.

The difference of opinion concerning the Constitution and Bill of Rights to sectional and personal interests than to any theories as to the form or functions of government. The Federalists were anxious to establish a strong central government

⁵⁰ H. V. Ames, "Proposed Amendments to the Constitution of the United States," in American Historical Association Report, 1897, II, 307-310.

to uphold credit, to encourage commerce and manufacturing, to prevent paper money, and to enforce the obligations of contract. The opposition, commonly called Anti-Federalists, were alarmed at the effort to create a strong central government, because they feared national taxation and believed that the interests of agriculture would be sacrificed to the protection of manufacturing and commerce. Because of their own situation, they were not very eager about the payment of debts, either public or private, and in general, they were more concerned about the interests of the debtor and the creditor. Hence, it is easy to see why they introduced amendments to the Constitution to try to limit the powers of the central government.

Other proposed amendments dealt with indictment by grand jury, trial by jury in civil cases, titles, a standing army in time of peace, publication of journals and accounts of the treasury, navigation laws, excise laws, suspension of writ of habeas corpus, slave trade, and redemption of a state's paper money.⁵¹ While the amendments which were adopted have become increasingly important, the court system established in 1789 has been a controversial issue down to the present time.

⁵¹ H. V. Ames, "Proposed Amendments to the Constitution of the United States," in American Historical Association Report, 1897, II, 307-310.

CHAPTER IV

ESTABLISHMENT OF THE NATIONAL JUDICIARY

Each of the four proposed plans for a Constitution in 1787 recommended a national judiciary, and the convention undertook to comply with a demand supported by this seeming unanimity of opinion among its leaders. But it was not unanimous concerning the nature of the judiciary. The question was as to whether there should be a supreme court with a complete set of inferior courts or just a supreme court with the state courts used as inferior national courts. Rutledge of South Carolina contended that the state courts

. . . might and ought to be left in cases to decide in the first instance, the right of appeal to the national tribunal being sufficient to secure the national rights and uniformity of judgements; that it was making an unnecessary encroachment on the jurisdiction of the States and creating unnecessary obstacles to their adoption of the new system.¹

But Madison and others thought inferior courts necessary because the burden of the work would be too great for a

¹ Gaillard Hunt and James Brown Scott, Debates in the Federal Convention of 1787 (New York, 1920), 60.

supreme court to handle.

Richard Henry Lee thought it was a dangerous thing to vest in the same judge power to decide on the law and also general powers in equity. In case the law should restrain him,

. . . he is only to step into his shoes of equity, and give what judgement his reason or opinion may dictate; we have no precedents in the country . . . equity, therefore, in the Supreme Court for many years, will be mere discretion. I confess in the constitution of this supreme court, as left by the Constitution, I do not see a spark of freedom or a shadow of our own or the British common law.

He thought the offices would be filled by the "well-born," and that they would be disposed to favor those of their own description.²

Since the question of inferior courts could not be carried in the convention, it was necessary to compromise by putting into the Constitution a provision for the Supreme Court and passing the problem of inferior courts on to Congress to settle at a later date. Despite the debate on this subject the significance of the Constitutional provision for a federal court system could have been only faintly understood by those who made it. Indeed, the third article was the "sleeping lion" of the Constitution. This was not because its phraseology was

² "The Federal Farmer," in Wolcott Pamphlets, III, 25.

obscure but because no one was able to dip into the future far enough to see the full scope of the power which should decide alike laws of Congress and the acts of state legislatures, as well as to sit in judgement on men from the lowest to the highest, and which finally was to determine, in spite of nullification, secession, and rebellion, what kind of government ours was to be.

Congress was bound to establish a supreme court, but in the matter of inferior courts it was free to do as it saw fit; and in the establishment of these courts Congress solved the problem transmitted to it by the Constitutional Convention.

But the question was not settled without great difficulty. A committee in the Senate to bring in a bill for organizing the judiciary was composed of Ellsworth, Paterson, Maclay, Strong, Lee, Bassett, Few, and Wingate. On June 12, 1789, Lee reported the bill. He must, however, have been in the opposition in the committee, as he soon tried to amend it so as to prevent setting up any inferior courts whatever except for admiralty and maritime cases;³ and he was one of the six in the Senate who finally voted against the bill.⁴

³ W. G. Brown, The Life of Oliver Ellsworth (New York, 1905), 186.

⁴ Senate Journal, 1st Session, 65.

Those who were opposed to strengthening the central government could not have looked upon the establishment of inferior courts except with jealousy. They certainly knew these courts would bring to the government fresh power and influence, as through them it would touch very intimately the masses of people the country over. This is the method by which the federal government has made itself recognized. The most outstanding early example of this method was the application of the excise tax a short time later.

The committee on the bill had decided that there should be inferior courts for all causes to which, according to the Constitution, the judicial power of the government extended. The opposition declared this to be an effort to overthrow the state judiciaries.⁵ This was the ground taken by those who had opposed the inferior courts in the Constitutional Convention. Gerry, Randolph, Mason, and Martin had given the extensive jurisdiction of courts as one reason for not signing the Constitution. The day the bill was introduced into the Senate, Pierce Butler of South Carolina made such a vigorous attack on it that he was called to order by the chair.⁶ The bill came before the Senate

⁵ Brown, Life of Oliver Ellsworth, 192.

⁶ E. S. Maclay, Journal of William Maclay (New York, 1890), 74.

June 22 and was up for discussion much of the time until July 17, when it passed. Lee's motion to omit the inferior courts had been lost. In the passage of the bill, Oliver Ellsworth had acted as its manager and chief defender.

The vote in the Senate was fourteen to six in favor of the bill. The six in the opposition were Butler, Grayson, Langdon, Lee, Maclay, and Wingate.⁷ Three of those in the opposition were on the committee to bring in the bill.

Senator Maclay of Pennsylvania confided his feeling to his diary. "This vile bill is a child of his [Ellsworth], and he defends it with the care of a parent, even with wrath and anger."⁸ He said again:⁹

I opposed this bill from the beginning. It certainly is a vile law system, calculated for expense and with a design to draw by degrees all law business into the Federal courts. The Constitution is meant to swallow all the State Constitutions by degrees, and thus to swallow, all the State judiciaries. This, at least, is the design some gentlemen seem driving at. O sweet candor, when wilt thou quit the cottage and the lisping infant's lips and shed thy glory around the statesman's head? Is it inscribed on human fate that man must grow wicked to seem wise; and must the path of politics be forever encumbered with briers and thorns?

⁷ Senate Journal, 1st Session, 64.

⁸ Maclay, Journal of William Maclay, 91.

⁹ Ibid., 117.

August 24, 1789, the bill as previously passed by the Senate came up for discussion in the House. The word "federal" in the first clause was stricken out. Burke wanted "Chief Justice" eliminated, as it was "a concomitant of royalty." A motion to reduce the Supreme Court to four members was defeated, as was a motion to strike out the clause providing for district courts as burdensome and useless.¹⁰

Livermore feared the establishment of such a system would lead to an entirely new system of jurisprudence and fill every state with two sets of courts for the trial of many cases. It would be a "Government within a Government," and one would of necessity prevail over the other. He thought it would be vexing to the people. The state courts were adequate, and there had been no complaint about them. The federal courts would be expensive and unnecessary. It would lead to a "double suit" of judges, attorneys, marshals, clerks, and constables, as well as jails and courthouses. "For my part, I contemplate with horror the effects of this plan; I think I see a foundation laid in discord, civil wars, and all its concomitants." He would have had Congress establish state courts of admiralty

¹⁰ Annals of Congress, I, 812-813.

instead of district courts. He did not oppose the Supreme Court. His opposition was to the double jurisdiction.¹¹

Jackson of Georgia did not believe the court system proposed for "we the people," for their convenience, "but appeared to be rather intended to destroy some of the most valuable and important privileges of the citizens." He thought it would establish a round of appellate courts and that the poor man in litigation with the rich would "be harassed in the most cruel manner." He thought the lack of money on the part of the poor man would prevent him from carrying his cases to the higher courts, and "he must sink under the oppression of his richer neighbor." He believed the people wanted only one appeal and that from the state courts to the Supreme Court. He made much of the argument that the offender would be dragged from his friends to a distant place for trial, thereby losing the advantage of his reputation, and that it would be difficult to get evidence at such distance.¹²

Sedgwick of Massachusetts thought that to fail to pass the bill would divest the government of "one of its most essential branches; if this is destroyed, your Constitution is

¹¹ Annals of Congress, I, 813-884.

¹² Ibid., 832-835.

but a shadow of a Government." He did not believe the state legislatures should be the sole guardians of the national faith and honor. "Already have the United States been hurled down by those arms from a pinnacle of glory to the lowest state of degradation." That was the cause of the chaos under the Articles of Confederation.¹³

Stone of Maryland made the strongest arguments for the opposition. He said that a centralized government was the product of necessity, and its powers should go no farther than necessity would justify. He believed the government as established was considered by those who made it to be dangerous to the liberties of America. That was why they placed the safeguards they did. "They supposed it had a natural tendency to destroy the State Governments; or, on the other hand, they supposed that the State Governments had a tendency to abridge the powers of the General Government" He argued that district courts were not needed at the time and that they could be added when the necessity arose. It would have been a difficult matter at the time to prove the necessity of going as far as was intended by the bill. The Federalists did not contend

¹³ Annals of Congress, I, 836-837.

that they were actually needed at the time. It would seem that the Constitution had not made the inferior courts mandatory but that it had merely provided for the future development of the judicial system. He argued further that since the Constitution, and the treaties and laws made under the Constitution, were the supreme law of the land, that there was no need to fear that the state courts would not carry out the laws of Congress or that they would not properly decide cases. He thought necessity, and not rivalry, was the basis on which to establish the federal court system.¹⁴

Madison's attempt to meet Stone's arguments was not very successful. He admitted the concurrence of jurisdiction but said that this did not make the proposed judiciary impracticable. He repeated the argument that state courts could not be entrusted to execute the federal law. He did not see "how it could be made compatible with the Constitution, or safe to the Federal interests, to make a transfer of Federal jurisdiction to the State courts" ¹⁵

The debate continued with Livermore arguing that such a bill would change entirely the form of government,¹⁶ and Stone

¹⁴ Annals of Congress, I, 840-843.

¹⁵ Ibid., 843-844.

¹⁶ Ibid., 851.

driving the hardest arguments on the interpretation of the Constitution as making the inferior courts discretionary. If they were mandatory, then why the phrase "from time to time," he asked.¹⁷

Sumter of South Carolina said his constituents distrusted the idea. "It was hostile to their liberties, and dangerous to the extreme; he could not think so ill of his fellow-citizens as to suppose that the rein of despotism was necessary to curb them." He said the people did not want such a judicial system. It was doubtful if the Constitution was adopted by a majority to begin with, but "it was certainly adopted under a firm confidence that it would exercise no tyrannical powers."¹⁸ He thought "the people of America do not require the iron hand of power to keep them within due bounds; they are sufficiently enlightened to know and pursue their own good. How, then, will they receive a system founded upon distrust, and levelled against the free exercise of that liberty which they have secured to our common country?"¹⁹

All motions to alter the fundamental provisions of the bill were defeated, and it passed the House without a recorded

¹⁷ Annals of Congress, I, 854.

¹⁸ Ibid., 864.

¹⁹ Ibid., 865.

vote. But at least fifty-two amendments were offered to it. After considerable wrangling back and forth between the House and the Senate, the bill was finally agreed to and signed by Washington on September 24, 1789. John Jay was named the first Chief Justice.

The principal defenders of the bill in the House were Madison, Sherman, Ames, Sedgwick, Benson, Lawrence, and Smith of South Carolina. The fight on the bill was largely carried on by Livermore, Tucker, Burke, Sumter, Jackson, and Stone. As passed, the bill created a supreme court with a Chief Justice and five associates. By the provisions, each state was to have a district court, as were Kentucky and Maine. The states were divided into three circuits. Circuit courts were to be composed of district judges presided over by a justice of the Supreme Court. Three other laws to supplement the judiciary act were passed by the first Congress. They dealt with processes in the courts,²⁰ and defined crimes and offenses under authority of the United States.²¹

Although the judiciary act was not one of the hardest fought acts of the first administration of Washington, the

²⁰ Senate Journal, 1st Session, 153.

²¹ Ibid., 2d Session, 12, 16, 17, 63.

temper of the public and of Congress on the matter may be somewhat determined by the case of *Chisholm Vs. Georgia* in 1793. The decision by the Supreme Court that a citizen of South Carolina could sue the sovereign state of Georgia caused so much agitation that the eleventh amendment was passed by Congress and ratified by all the states except New Jersey, Pennsylvania, and Tennessee. The resolution for this amendment passed the Senate by a vote of 23 to 2, and the House by 81 to 9.²² It should be unnecessary to remark that the aggression of the Supreme Court has not been met in this manner since that time.

Probably the observation of John Quincy Adams may be accepted as fairly representative of the general opinion after a few years under the new judiciary. "It is indeed surprising how that diminution of confidence has in so short a period of time since the last change pervaded every part of the Commonwealth; and the mortification of the party is greatly aggravated by the respectability of the national courts, and the growing attachment to them."²³

It could hardly have been possible for those who passed

²² E. E. Sparks, The United States of America (New York, 1904), I, 158-170.

²³ Ford, Writings of John Quincy Adams, I, 117.

the Judiciary Act to have fully realized its possibilities in determining the nature of the government. The foundations upon which the national life was to depend were being laid. The importance of the first tariff measure was likewise far-reaching as will be seen from the following chapter.

CHAPTER V

TARIFF AND MANUFACTURING

1. The First Tariff Measure

The general misconception of the first tariff act passed under the United States government demands some clarification. It has been called a revenue measure, and the low rates have been urged as proof of its non-protective character. But a little study will show that the "first tariff act, was protective in intention and spirit."¹ The action of the states furnished the experience on which the national legislation was based. State legislation had become thoroughly protective under the Articles of Confederation government.

Another inducement to protection had been the English measures to secure a monopoly of carrying trade, in addition to the virtual monopoly already possessed in manufactured commodities which formed the bulk of American imports. American free trade ideas vanished with the political freedom which made possible industrial and commercial freedom. This, of course, meant the development of domestic resources. The most important

¹ F. W. Taussig, The Tariff History of the United States (New York, 1892), 14.

evidence of all this is to be found in statements in newspapers and the observations of the men who made the tariff.

The Confederation Congress had in 1783 formed a plan for a five per cent duty with a few special duties on articles like tea, coffee, and sugar. The failure of this plan was one of the most important events leading to the adoption of the Constitution.² When Congress met in 1789, this scheme, which had been aimed only at procuring revenue, was presented by Madison.

But before going into the measure, let us see something of the sentiment which had grown up over the country in the meantime. "A Philadelphia Mechanic" said a passion for encouraging American manufactures had become fashionable in some parts of the country, and he advocated that on inauguration day, March 4, 1789, all members of the Senate and House, as well as the President and Vice-President, be clothed in American made clothes.³ He thought such an announcement in the newspapers would strike more awe into the minds of the enemies of American commerce than twenty laws to encourage American manufactures, or to restrain undue imports into this country.

² Taussig, The Tariff History of the United States, 14.

³ Connecticut Courant and Weekly Intelligencer (Hartford), January 17, 1789.

The same journal thought Connecticut should develop industry, as her agriculture could not support the population. "We must find more advantageous business than that of day-laborers in the field or we shall annually lose thousands of our inhabitants." The state had some 200,000 population, but had lost 100,000 by emigration within the last ten years. Commerce could not be much expanded. The only thing that could furnish employment and stop the outgo of population was manufactures.⁴

In 1789, Connecticut manufactured paper to the value of \$9,000 besides pasteboard, press-paper, and other cheap grades of paper. A woolen manufactory had recently been set up at Hartford and turned out 10,000 yards annually. Some of this cloth was sold at thirty shillings per yard. New Haven had a profitable linen factory which sent some course grades to the Southern States. More nails were made than the state could use. "In short the manufactures of linen, woolen, leather, iron, brass, paper and a variety of other articles together with the culture of silk, are increasing" They were then at a point where rapid progress should be made. The raw materials and machine labor were depended upon to make America soon pass her European rivals. It was believed they were already doing so. The state had aided these industries by grants, premiums,

⁴ August 31, 1789.

and partial exemptions from taxation in many cases.⁵

In October, 1790, John Quincy Adams reported to his father in a letter from Boston that manufactures were multiplying very rapidly, and that 1,200 people were employed in one factory which had been established only three or four years.⁶

Cotton manufacturing was beginning in Virginia. The Gazette of the United States on July 9, 1789, reported that in Petersburg, Virginia, cotton cloth of very excellent quality, and very cheap in price, could be purchased from almost any of the country people who brought it to town for sale. Cotton manufactures were established at Philadelphia and at Beverly. The Boston Assembly granted £500 to the factory at Beverly as a gratuity for its advancement.⁷

This development in manufacturing was especially vigorous in Connecticut, Massachusetts, and Pennsylvania, and it was here that Madison was to encounter much opposition to his revenue bill. These states had previously imposed protective duties, and they were desirous of maintaining the aid already given to their industries. "I am clearly of the opinion that

⁵ Connecticut Courant and Weekly Intelligencer, September 14, 1789.

⁶ Ford, Writings of John Quincy Adams, I, 62.

⁷ The Gazette of the United States, August 15, 1789.

the navigation and manufactures of America cannot well be too much encouraged,"⁸ said Fisher Ames. Madison's bill was simple and could have been enacted at once, a strong argument in its favor, as it was necessary to get a revenue system into operation as soon as possible. The government could do little until it had money on which to operate. The Treasury was empty, and the debts were pressing. But Madison's simple proposal was replaced by a more complicated scheme. The general duty of five per cent was retained on all goods not otherwise enumerated. On some of these enumerated articles the duty was as high as fifteen per cent.

It was not the matter of revenue with which the opposition were most concerned. Fitzsimons, a representative of the commercial and manufacturing interests of Pennsylvania, realized that a bill once enacted would be difficult to change, and he preferred to forego the revenue for the time being until a bill could be enacted which would encourage the industries which had already made considerable progress under state aid.⁹ He, therefore, moved to substitute the Pennsylvania system of protection for Madison's proposal. All articles offered by Fitzsimons

⁸ Letter to George R. Minot (May 29, 1789), in Ames, The Works of Fisher Ames, I, 49.

⁹ Annals of Congress, I, 103-105.

were taxed by Pennsylvania in 1785 except six unimportant ones.¹⁰

The Southerners thought such a scheme would not bear equally on the different sections of the country. Virginia and South Carolina especially feared injury to agriculture. Everything except a strong desire for immediate protection was against the Fitzsimons plan. But most of those who favored Madison's plan did not oppose the other one because of its protective features. They argued many other causes but did not contend that the protection was unconstitutional or even undesirable.

May 15, 1789, Madison moved to make the tariff bill temporary. The protectionists flew to arms. Ames said Madison "supported it by reasons which I despise." Madison said it was anti-republican to grant perpetual revenues unappropriated, that it was unwise to part with the power as a third of the Senate could prevent the repeal of the act. Ames retorted that they did not trust the Senate or themselves. He said that

. . . money is power, a permanent revenue is permanent power, and the credit which it would give was a safeguard to the government. With all the powers which we had, and most prudent exercise of them, it was not to be imagined that the government was too strong or too competent to preserve its being; it was weak, young, and counteracted. Instead of immortality we took a lease for years.¹¹

¹⁰ Annals of Congress, I, 106.

¹¹ Ames, The Works of Fisher Ames, I, 39.

Madison's motion had carried by a vote of 40 to 8.

Ames showed plainly that it was the strength of the new government with which he was concerned as well as the protection of the infant industries. He said:

But is it not a risk, to trust the revenue in future to the caprice of the Antifederalism, the State politics, or the knavery of these folks? No revenue, no government, is a truth, and may you not be forced to buy their consent to a revenue to keep life in the government, either by amendments, by renouncing protecting and navigation duties, or by damning the debt?

He wanted stability and system. Fitzsimons also thought a "temporary system was despicable and ruinous."¹²

It is evident in all measures of the Federalists that they desired a strong central government. These demands for such a government resulted from the economic advantages which they expected to reap from such policies.

Fitzsimons argued that since Pennsylvania had offered inducements to capitalists to invest their money in manufacturing enterprises by imposing duties on imports, it would be only justice that Congress should continue this practice now that the state revenues had been ceded to it. The state had placed a duty of ten per cent on British steel and other iron manufactured goods in 1785, and he wanted to continue this duty as well

¹² Ames, The Works of Fisher Ames, I, 39.

as one at the same rate on textiles. The South made little or none of these articles and opposed the duty. But it would have hemp protected. At this New England revolted. Log-rolling began in the first Congress as it has continued ever since.

Madison wanted to pass the bill in order to secure revenue from spring importations. The trading classes of the large cities, in anticipation of the measure, ordered large quantities of goods from Europe and then worked to delay the bill. It was not finally passed until July 4, and its operation was deferred until August 1. In anticipation of the new tariff, the merchants also raised the price of their goods. Maclay declared this diminished the revenue of the government by a million and a quarter dollars.¹³

It may not be said that political parties existed at this time, but the sectionalism shown in the debates on the tariff bill pointed unmistakably in the direction of later party developments. There was no party solidarity as yet. It was the game of grab-bag. Each one got all he could for his constituents.

The Southern members favored a high duty on molasses as a means of revenue. Massachusetts imported more molasses than

¹³ Maclay, Journal of William Maclay, 46.

did all the other states together, and her members argued that molasses was used as a substitute for sugar and that it would be an oppressive tax on the necessities of life. This proposal evidently created much excitement in Massachusetts, as John Quincy Adams wrote to his father that the revenue bill had chiefly engaged their attention and that "The original duty upon molasses exceedingly alarmed many of our West India Merchants, and whatever may be said of discharging all local and personal considerations, they have not, I believe, been so well pleased with any act of the President of the Senate, as his turning the vote for reducing the duty to three cents."¹⁴

Madison, as will be gathered from his speeches, was opposed to any very restricted system of commerce. It was Pennsylvania, then as now, who took the lead in the fight for protection. In general, however, any industry which had been started in any state was championed by the members from that state. The arguments ran that the whole nation would benefit by whatever benefited a part and that it was necessary to render the nation independent, even at some sacrifice.

In keeping with the above principles Clymer of Philadelphia argued for a duty on whiskey stills. One furnace in Philadelphia produced 230 tons of steel annually. He thought with a

¹⁴ Ford, Writings of John Quincy Adams, I, 42 (June 28, 1789).

little encouragement it would supply enough for the entire Union.¹⁵ Tucker of South Carolina disagreed because he considered "the smallest tax on steel to be a burden on agriculture, which ought to be an interest most deserving of protection and encouragement." He favored a bounty on steel instead of a tax.¹⁶

The New Englanders wanted a tax on nails. The Southerners objected on the ground that it would be a burden on improvement of estates. Ames advocated using the taxing power to change the trade of Southerners from England to "a more natural course. Good policy and sound wisdom demonstrated the propriety of an interchange between the different parts of the Union."¹⁷ He thought this could be done by an import duty. The duty on nails was of little importance to the Middle States as they produced more than they could use, and were already able to meet competition.

In Maryland a glass factory had been established, and Carroll wanted a ten per cent duty on glass. This was granted without objection.¹⁸

¹⁵ Annals of Congress, I, 147.

¹⁶ Ibid., 148.

¹⁷ Ibid., 157.

¹⁸ Ibid., 167.

It is unnecessary to deal specifically with the various articles not included in the general five per cent provision. The intention is clear. Senator Maclay from Pennsylvania made an accurate observation. The Middle States were in a position to gain more and lose less than either North or South. "But the members, both from the North and more particularly from the South were ever in a flame when any articles were brought forward which were in considerable use among them."¹⁹ Maclay declared that Tucker, after criticizing the whole bill, said it was calculated solely to oppress South Carolina but that "His state would live free or die glorious."²⁰ Most of the others seemed willing to get what they could for their states and to make some concessions to others. In Tucker we see the first John C. Calhoun.

If America favored free trade before 1784, it had certainly changed by 1790. Demands for our trade had not caused England to consent to just and equal terms in commerce. But English restrictions led to restrictions by the United States. This was the stage of development when the Constitution was made, and it was natural that one of the first acts of the new

¹⁹ William Maclay, Sketches of Debates in the First Senate of the United States in 1789-1791 (Edited by W. Harris, Harrisburg, 1880), 77.

²⁰ Ibid.

Congress should be a measure for the protection and encouragement of American industries.

Despite this beginning and Hamilton's efforts, industrial development did not continue as it had begun. Had it done so, manufacturing would have grown up many years ahead of the time it did. Hamilton has been given credit for the tariff policy and, in general, for the close relationship between business and government in these early years. If a study of this period shows anything, it is that the forces demanding such a policy were already active and that they found in Hamilton a leader who was able to draw them together and make them effective.

2. Hamilton's Report on Manufactures

On December 5, 1791, Hamilton made his report on manufactures to the House of Representatives. The report may be divided into two parts. The first part sets forth the reasons why he believed it necessary to encourage the development of manufacturing industries. The second part gives a summary account of the industries which he believed needed protection. The arguments are set forth boldly, but as the case in most arguments of those days, little proof was deemed necessary.

There are no figures concerning wages, prices, and other essentials necessary to make clear the conditions of American production as compared with foreign competition.

This report is the most elaborate and, economically and politically, the most important of all of Hamilton's reports. It rested on "implied powers" and was intended as a basis for the development of the resources of the country and for rendering the nation strong and independent. Upon the principles laid down in the report, parties have divided, and a great economic system has been built up. It was the cornerstone upon which the federal government was built.²¹ Hence, it was not so much Hamilton's measures themselves upon which the opposition was based as it was their tendency towards a strong centralization in government.

The demand for such a system as Hamilton advocated was already in existence before he made his report. All that was needed was an organizer and a leader, and Hamilton was both. He was the dominant influence in the administration during the time he was Secretary of the Treasury. During the summer of 1791 he had men out surveying the country regarding manufactures. He also wrote letters to important men in different

²¹ Lodge, Alexander Hamilton, 108, 114.

sections of the country and had them write to a man or two in each town respecting the manufactures in that town.²² In this way he put the country, especially New England where most of his letters went, in great agitation over the question.

Hamilton's papers are full of letters in reply to the requests for information about manufactures in various sections of the country. One writer from Connecticut reported that after considering various plans for securing the information requested, he had written each member of the state legislature as well as the principal manufacturers.²³ Moses Brown from Rhode Island wrote that he would gladly contribute in every way to further the views of Congress or to assist the Secretary of the Treasury in promoting manufacturing in the United States.²⁴

Much information concerning manufactures can be found in Hamilton's manuscript papers in the Library of Congress. The surveys are considerably more extensive than would generally be expected. Some of them extended into families for domestic production. One of the most interesting cases of this kind was reported by Drury Ragsdale, Inspector for Survey No. 3, King

²² "Hamilton Papers" (MSS.), XII, 1567-1692.

²³ Ibid., XI, 181.

²⁴ Ibid., 75.

Williams County, Virginia. It showed 301 persons, including slaves, in twenty families, making 2,914 yards of cloth, and 260 pairs of stockings, at a value of £501.²⁵

A letter from Anslem Baily of Surrey, Virginia, states that perhaps you will be "surprised at hearing that most of the people in these parts have got in such a spirit of jealousy that they suspect some design unfavorable to them in everything that is attempted of a public nature."²⁶

A demand for increasing manufactures in the United States grew wildly. In 1791, a number of New Jersey men projected a scheme for founding a manufacturing town. A society known as the Society for Establishing Useful Manufactures was organized. The committee chose the present site of Paterson. Hamilton visited the place and was well pleased. The charter was obtained in November, 1791, from William Paterson, Governor of the state.²⁷

An act passed the legislature of New Jersey in November, 1791, to encourage manufacturing by the state. By the fourth clause, lands, tenements, goods, and chattels were exempt from

²⁵ "Hamilton Papers" (MSS.), XII, 159.

²⁶ Ibid., XI, 93.

²⁷ Alfred Neuburger, Alexander Hamilton (Paterson, New Jersey, 1907), 31-34.

all taxes levied by the state for ten years. By the fifth clause, the manufacturers themselves were exempted "from all poll and capitation taxes, and taxes on their respective faculties, or occupations, and from all taxes in the nature of general assessments." By the twenty-first section the above society was empowered to raise \$100,000 by a lottery. William Duer was made President of the society. Elisha Boudinot was one of the governors, and Hamilton played a great part in its establishment. In fact, Hamilton drew up the act that was passed by the New Jersey Legislature.²⁸

In his report Hamilton said the expediency of encouraging manufactures in the United States was generally admitted and that external troubles had made it a necessity to enlarge domestic commerce. Foreign restrictions on an increasing agricultural surplus had caused a desire to increase the demand for that surplus at home.²⁹

Instead of the usual order of giving the arguments for, and then against the encouragement of industry, Hamilton reversed the process in this case. His arguments against it were:³⁰

²⁸ Wolcott Pamphlets, No. 30, 111-112.

²⁹ American State Papers: Finance, I, 123.

³⁰ Ibid., 123-124.

1. Agriculture was the dominant and most beneficial and productive industry in this country, and it would contribute more to the population, strength, and riches of the country than any other industry because of the immense tracts of fertile, unimproved land. To endeavor by extraordinary patronage of the government to increase the growth of manufactures was to attempt to transfer interest and capital from a more to a less beneficial channel. He contended that it was always unwise for the government to attempt to give direction to the industry of its citizens.

2. There were special considerations in this country which should be considered: the small population as compared with the extensive territory; the constant emigration from the settled to the unsettled parts; the ease with which a laborer could become an independent farmer. All these would cause a scarcity of labor and, hence, high wages. The lack of capital and the prospect of competition with Europe would make it very difficult. Furthermore, manufacturing was the result of a surplus population; and until the United States had such population, it was useless to try to establish manufactures.

3. To encourage the production of certain articles would be to sacrifice the interest of the community to those who produced

such goods. It would be a monopoly to the protected class, and the increased price would be a sacrifice by society. It would be better to participate in agriculture and get the things needed by exchange with countries that could produce them cheaper than the United States could.

4. He admitted that agriculture as the chief means of man's subsistence had a strong claim to a place of pre-eminence over every other industry, but insisted that it did not have an exclusive claim. He denied that it was more productive than any other branch of industry, and that, any way, its interests would be advanced rather than injured by the encouragement of manufactures. Such encouragement was "recommended by the most cogent and persuasive motives of national policy."

Hamilton went at length to set up the physiocratic doctrines on the productivity of agriculture only to deny that they had any foundation in fact.

There were "circumstances which conduce to the positive augmentation of the produce and revenues of society":³¹

1. The division of labor.
2. An extension of the use of machinery.
3. Additional employment to classes not ordinarily engaged

³¹ American State Papers: Finance, I, 125-126.

in business. "Women and children are rendered more useful, and the latter at an earlier age." In the cotton factory in Great Britain four-sevenths of the laborers were women and children, and the greater proportion of these were children, "and many of them of a tender age." He thought wives and daughters might be made more useful in America.

4. The promotion of emigration from foreign countries.

5. Provision for greater scope for diversity of talents.

6. Assurance of a more ample and varied field of enterprise.

7. The creation of a more certain and steady demand for the surplus of the soil. All of these would be favored by the encouragement of industry.

Hamilton answered the arguments that the United States could produce agricultural products and exchange them for European goods to better advantage than it could produce the manufactured goods by saying that Europe would not take American products on terms advantageous to Americans. The only remedy was to contract American demand for European goods. He further argued that agriculture and territorial expansion would not be harmed because of the increased immigration.³²

Hamilton set forth the necessity for aiding industry. Among other things, he said it was a well known fact that other nations

³² American State Papers: Finance, I, 128.

grant bounties on exports in order to undersell the country where they are sent.

Hence the undertakers of a new manufacture have to contend, not only with the natural disadvantage of a new undertaking, but with the gratuities and remunerations which other governments bestow. To enable them to contend with success, it is evident that the interference and aid of their own governments are indispensable.³³

Of course Hamilton was aware that the "Northern and Middle States" would be the scene of such developments. He argued, however, that this would create a demand for the products of the South and that all parts of the Union would be benefited.³⁴

Hamilton proposed a number of methods which he thought might be used to promote manufacturing in the United States:³⁵

1. Protective duties.
2. Prohibition of rival goods by high duties.
3. Prohibition of exportation of materials of manufacture.
4. Pecuniary bounties.
5. Premiums. Bounties would be on the whole quantity of an article produced, while premiums would apply to a special

³³ American State Papers: Finance, I, 129.

³⁴ Ibid., 134.

³⁵ Ibid., 136.

excellence, skill or exertion.

6. Exemptions of materials of manufacture from duty.
7. Drawbacks of the duties imposed on materials of manufacture.
8. Encouragement of new inventions and discoveries.
9. Regulations for the inspection of manufactured goods.
10. Facilitation of money remittances by use of bills of exchange with general negotiability.
11. Facilitation of transportation by building roads and canals.

He went still further and warned against certain types of taxation. Poll taxes, occupation taxes, and certain cases controllable by revenue officers would discourage industry. Finally, he discussed a long list of articles separately. It is interesting to note in his discussion on cotton that he said: "The three cents per pound, on the foreign raw material, is undoubtedly a very serious impediment to the progress of those [domestic] manufactures." The United States could not produce the necessary supply; and, besides, it was of a poor quality.³⁶

Hamilton's report was a noble appeal to the nation in behalf of a branch of its economic development, the importance

³⁶ American State Papers: Finance, I, 138.

of which was not then understood. It was conspicuous for its attempt to legislate patronage into the channel of manufactures at a time when the dominant interests were commercial. Only a few of Hamilton's suggestions were incorporated into the tariff system. It was too early for protection to become a serious policy on the part of the government, but this report was the basis of industrial development long after Hamilton had passed away.

That a conflict between the agricultural and the manufacturing and business interests was inevitable is clear. And that it should take on a political aspect was natural. Hamilton became the forerunner of the capitalistic system because of his ability and foresight. He did not originate the demand for protecting and fostering industry, but rode the tidal wave of this popular demand to great esteem, and gave added impetus to it by his prophetic insight and untiring efforts.

This was probably the ablest state paper from Hamilton's pen; yet it contributed much to prostrate his political standing and to overthrow his party. Its bold assumption of power afforded a clear indication that Hamilton regarded his victory over his political enemies as complete. But they attacked it with vigor, declaring it the most pretentious assumption of power yet suggested. While it was shown that other governments

had considered it a function of government to protect industries, it was believed by the agricultural sections that business should be left to its natural course. Those who opposed encouraging industry were of the borrowing rather than the lending class, and they depended upon individual initiative rather than mass action. They were strangers to the fostering hand of government.

Fortunately for business, under the newly established government, trade and commerce speedily underwent a metamorphosis. Under the stimulus of a European war, American goods found new markets and high prices, and men and ships were soon engrossed in supplying this unusual demand. This boom in business explains the absence of any demand for protection until after 1815. The real financial problem, however, was neither manufactures nor tariff, but the debt. The pitiable state of American finance was the most serious structural weakness in the new governmental framework, in the eyes of other nations. Some satisfactory disposition of this embarrassing matter urgently demanded attention.

CHAPTER VI

FUNDING THE DEBT

1. Introduction

On January 9, 1790, Hamilton presented his first report on the public credit. It was made at the request of the House of Representatives in a resolution passed September 21, 1789. The matter of the public credit was largely the matter of the national and state debts, and in dealing with these, Hamilton, as later statesmen have usually done, viewed them from the standpoint of the bondholders and the credit of the government, rather than from the welfare of the masses of taxpayers. The securities at two shillings and sixpence per pound were sufficient to pay soldiers who fought for their country, or any one who sold the government goods; but after 1789, the speculators (bondholders) must have face value for their securities. But this is no isolated case in history. During the Civil War greenbacks were good enough to pay soldiers, but after the war they were not good enough to pay capitalists and manufacturers. Of course it was necessary that the credit of the government be maintained or worse conditions would have prevailed. So the masses were to suffer to enrich a special

class, that the government might maintain itself in good order. At least, this was the theory of the Federalists headed by Hamilton.

The funding plan had adherents before Hamilton made his report to Congress. The Pennsylvania Packet¹ carried an article advocating funding the debt and gave the following reasons:

1. To create an artificial capital and stimulate industry.
2. To create public credit and to benefit commerce, manufacturing, and agriculture.
3. To put the United States in a position to maintain its neutrality in the event of a European War.
4. The necessary resources were available for funding.

Such articles as this one were numerous considering the number of publications, and most numerous of all in New England.

From September, 1789, to January, 1790, the Connecticut Courant carried sixteen articles in almost as many weeks under the heading, THE OBSERVER. The public debt in its various aspects was discussed. The third maintained that the public debt was a benefit and gave the following reasons:²

1. It was a bond of union and interested a powerful and

¹ Boston, August 17, 1789.

² November 23, 1789.

opulent class of citizens in the support of the government.

2. It would increase the transferable property and would stop speculation.

3. It would benefit industry and agriculture.

In the various numbers the writer took up almost every phase of the question connected with funding. He dealt with the form and manner of taxation, the fluctuation of securities, the perfection of the Union, and many other topics related to funding. It is stated by a good authority that the advocacy of funding the state debts by Hamilton's report "was unexpected, even by the keen-scented speculators."³ But on December 14, 1789, the Connecticut Courant carried an article addressed to the public creditors in which the author said that the state creditors were in the most hazardous situation of all and ought to unite their influence to place their own securities on the same footing with the national creditors. Several articles mention the diversity of systems in different states and imply that funding should include state debts also. The last article was written after Hamilton had presented his report and was a defense of that plan.

There must have been a general belief that the national

³ Bassett, The Federalist System, 30.

debt would be funded, because in the newspapers for several months before Hamilton's report was presented, numerous advertisements were carried for securities.⁴ Also, the price rose from five shillings on the pound in September, 1789, to nine shillings by the following January.⁵

Of course, the Federalists took the credit for the increase in prosperity after the new government went into operation, and many writers have been inclined to attribute to it the successful operation of Hamilton's plan. If we may take Franklin's authority, prosperity was returning before Hamilton even made his first report.

The harvests of last summer have been uncommonly plentiful and good; yet the produce bears a high price, from the great demand. At the same time, immense quantities of foreign goods are crowded upon us, so as to overstock the market, and supply us with what we want at very low prices. A spirit of industry and frugality is also very generally prevailing, which, being the most promising sign of the future national felicity, gives me infinite satisfaction.⁶

It is possible that a great part of the financial difficulty under the Articles of Confederation was the aftermath of the war, and that too much credit has been given to the influence

⁴ See Connecticut Courant and other papers for this period.

⁵ "Hamilton Papers" (MSS.), Vol. 10, January, 1791.

⁶ Jared Sparks, The Works of Benjamin Franklin (Boston, 1840), X, 400.

of the government in bringing about prosperity during its early years.

2. Funding the National Debt

Hamilton had prepared his report; and following the precedent of the British Chancellor of the Exchequer, he expected to go on the floor of the House of Representatives and defend it. This was not novel to Americans, as Robert Morris, as Superintendent of Finances under the Articles of Confederation, had had the privilege of going before Congress with his plans and recommendations.⁷ But there were members of Congress who would not think of permitting such. Gerry made a motion to have the report made in writing, but Boudinot, Clymer, Ames, and Benson argued in favor of allowing Hamilton to report in whatever manner he chose, meaning orally from the floor. Gerry was uncompromising, as was Madison, and the motion carried.⁸

This was an important decision. Hamilton was excluded from the floor of the House and was forced to work in the lobby. But it probably had a still more far-reaching influence. "To it must be ascribed the singular degradation that has taken

⁷ Henry Jones Ford, Alexander Hamilton (New York, 1920), 1210.

⁸ Annals of Congress, I, 1043-1044.

place in the position of the House of Representatives, and, indeed, the whole constitutional scheme was turned awry by it"⁹ This was the first manifestation of a break between Madison and Hamilton, and it soon developed into open hostility. Hamilton had counted on Madison's support, but here their ways parted. It is indeed strange that the two men who had done the most towards the adoption of the Constitution should become the leaders of rival forces on the question of its interpretation. How was this parting of the ways to be accounted for?¹⁰ The partisans of Hamilton accused Madison of being a "wiley politician." But such flagrant and interested accusations are not convincing. Throughout the entire struggle Madison was probably the most self-possessed man in the House of Representatives. Was Hamilton making an effort to carry the Constitution beyond the intention of its framers, or had Madison taken a reactionary position from that of his earlier nationalistic leanings? Both of them should have known the intention of the framers of the Constitution.

Hamilton's report was received by Congress on January 14, 1790, and along with it was a plan for the support of the public

⁹ Ford, Alexander Hamilton, 210.

¹⁰ See Chapter II, 7-8, for Madison's view.

credit. January 28, the report was the order of the day, but since the report had not been printed and distributed to the members, it was postponed to February 8. But before the matter was disposed of, a considerable discussion had taken place on the speculation which had resulted from the report.

Let us notice the report briefly. "It is a well known fact, that, in countries in which the national debt is properly funded, and an object of established confidence, it answers most of the purposes of money." The funding, Hamilton argued, would expand credit and thereby promote trade, agriculture, and manufactures. It would also lower the interest rate on money. He stated further that the value of cultivated lands, especially in the South, had fallen from twenty-five to fifty per cent since the Revolution. This decrease had been due to scarcity of money; and, consequently, this augmentation of the capital of the country would raise land values.¹¹ Hamilton was accused at the time, and has been since, of wishing to establish a perpetual debt. Referring to himself in the third person he says: "That he ardently wishes to see it incorporated, as a fundamental maxim, in the system of public credit of the United States, that the creation of debt should always be accompanied

¹¹ Hamilton, Works, III, 5-6.

with a means of extinguishment."¹²

On February 8, Smith of South Carolina, introduced a series of resolutions for dealing with the report. Boudinot of New Jersey, after discussing all history relative to the debt, and much that was not, concluded,

. . . there is no man possessed of the principles of common honesty, within the sound of my voice, that will hesitate to conclude with me, that we are bound by every principle of honor, justice, and policy to fund the debt of the United States, which has been one great means, under heaven, of securing to us independence. I presume, sir, on this point we have no dispute. All that remains, then, for our consideration, is the manner and means of accomplishing it.¹³

He was probably correct at the time because the opposition did not take on a serious turn until Madison threw his great influence in the balance in favor of making a discrimination between present and original holders of securities. The question was never one of funding or of not funding, but of the method of accomplishing the process.

Fitzsimons of Pennsylvania introduced a series of eight resolutions dealing with every phase of the debt. He had, no doubt, been selected by Hamilton to do so. At any rate, Smith withdrew his resolutions in favor of those offered by Fitzsimons.

¹² Lodge, Works of Hamilton, III, 5-6.

¹³ Annals of Congress, I, 1138.

The resolutions were:¹⁴ first, that provision be made paying the foreign debt; second, that money for payment of interest and principal of the national domestic debt be appropriated; third, that arrears of interest, including indents issued in payment thereof, be provided for on the same terms as the debt; fourth, that debts of the respective states, with the consent of the creditors, be assumed and provided for by the United States; fifth, that it was advisable to effect modification of the domestic debt, including the state debts, by a loan, the terms of which would be mutually beneficial to the creditors and to the government; sixth, that to provide for the preceding resolution a loan should be opened to the amount of the debts mentioned; seventh, that immediate provision be made for the debt of the United States, and that the faith of the government be pledged to make provision at the next session of Congress for as much of the state debts as should be subscribed according to the terms of the resolution; eighth, that any unsubscribed surplus under the second resolution be applied to payment of interest on the unsubscribed part of the debt. The sixth resolution offered five alternatives in settlement ranging from funding of two-thirds at six per cent and one-third in land, to a life annuity

¹⁴ Annals of Congress, I, 1138.

at four per cent.

The first opposition to the funding system came from Jackson of Georgia. He said that Florence, Genoa, and Venice had sunk into obscurity as a result of funding systems and that Spain, France, and England were good examples of its effects. But he had other objections also.

Thus the honest and hardworking part of the community will promote the ease and luxury of men of wealth; such a system may benefit large cities, like Philadelphia and New York, but the remote parts of the continent will not feel the invigorating warmth of the American treasury; in the proportion that it benefits the one, it will depress the other.¹⁵

Considerable discussion arose as to whether or not there should be discrimination between the domestic and the foreign debts. One member thought there should be such discrimination because the domestic debts were made in inflated money. They were not equal in value in the first place. Another member believed discrimination impossible because foreigners had purchased part of the domestic debt. Yet another believed that foreigners had invested as a business proposition and should have to take any risk. A fourth thought Congress must meet the foreign debt at its face value, but that in the matter of the domestic debt it was an arbiter and it might modify the debt as

¹⁵ Annals of Congress, I, 1140.

justice demanded.¹⁶

Boudinot denied that Congress was an arbiter. It was a party to the contract, and the plea of a bad bargain did not alter the contract. The Constitution provided, he said, that all debts contracted were as valid under the Constitution as under the Confederation. Congress only had power to offer propositions for the most convenient method of payment.¹⁷

An amendment was offered to the second resolution to add "as soon as the same is ascertained and duly liquidated."¹⁸ Ames said this was intended to reduce the amount of the debt. Those favoring the contract idea saw that this would at least open the question of reduction and possibly cause instability of securities.¹⁹ If Congress could legislate to impair a contract of the government, it would destroy the effect it intended to produce, confidence in the government. Ames thought it was a matter of property rights and that such a resolution would destroy the public faith, "and future credit will be a mere vapor." He said it would be arbitrary on the part of the government and would destroy the essential rights of the people and

¹⁶ Annals of Congress, I, 1146-1148.

¹⁷ Ibid., 1151.

¹⁸ Ibid., 1149.

¹⁹ Ibid., 1152.

finally terminate in a dissolution of the social compact.²⁰

The above arguments for the necessity of funding these securities at face value are hard to understand when those who proposed them were advocating, at the same time, to fund the continental currency at one hundred to one.²¹ Were not those who held the paper of the Continental Congress as truly holders of contracts as those who held securities?

The argument that the government was bound by contract to pay the face value of securities continued. Scott argued that in equity the government was not bound to pay the full amount. The nominal amount of the securities was twenty shillings per pound, but the certain known value when they were accepted was only about two shillings and sixpence. "Thus, the soldier who had, through blood and slaughter, established the liberties of his country, crowned the whole by the sacrifice of pecuniary emoluments. His consent was given to the contract, and he received two shillings and sixpence in the pound."²² It was not those to whom the securities were issued who were clamoring. The objection came from those who held the securities at the

²⁰ Annals of Congress, I, 1154.

²¹ Ibid., 1165.

²² Ibid., 1166.

time. "Nay, I do not know but it will tend to the destruction of the Government itself, by destroying that energy on which all depends," declared Sedgwick of Massachusetts in protesting the delay in adopting the funding program.²³

Scott did not believe that there was much danger from failure to adopt the plan proposed by the administration. "If that be the case, a skin for a skin, all that a man has he will give to save his life. If we are to be torn to pieces, or if the speculators will cut our throats, if we do not pay them twenty shillings for their half crown, I will consent to what you please; but, before I do this, I should like to know how this is to come about."²⁴

Jackson of Georgia said the funding was dangerous and that according to Blackstone, the British established their debt "because it was deemed expedient to create a new interest called the moneyed interest, in favor of the Prince of Orange, in opposition to the landed interests, which was supposed to be generally in favor of the kind, who had abdicated the throne. I hope there is no such reason existing here." He quoted Adam Smith to the effect that the practice of funding had enfeebled every

²³ Annals of Congress, II, 1172.

²⁴ Ibid.

state which had tried it.²⁵

There were three classes of creditors. The first were those who held the Continental bills of credit. These bills were issued and circulated at par until their volume caused them to depreciate in value. Congress then recommended that the several states pass "tender-laws" for their support. Despite the fact that all the states did so, they continued to depreciate, and Congress finally passed an act to redeem them at forty to one. Other issues followed and soon they, too, were almost worthless. These last issues were included in the funding at one hundred to one. The second class of creditors were those who had received certificates for services or supplies. Many of these had transferred their claims, but it was argued by some that they still held their claims in equity, and that the government was under no obligation to pay the present holders more than they had paid for the certificates plus interest to the time of funding. The third class was the one which held the certificates at the present time.²⁶

The motion to amend the second resolution was defeated. The administration forces had won the first skirmish.

²⁵ Annals of Congress, II, 1172.

²⁶ Ibid., 1180-1181.

3. Discrimination

On February 10, Burke of South Carolina made a motion to discriminate between the original and the present holders of the public securities. The motion was laid on the table, and the next day he withdrew it. As yet Madison had taken no part in the discussion. But on the withdrawal of Burke's motion, he stepped forth to champion the cause of the original holder and to become the leader of the opposition to the administration. Madison agreed that the amount of the obligation was fixed by the face of the notes and at a rate of six per cent. He thought the only point to settle was to whom the payment was due.²⁷ Up to this point the discussion had been one of scaling down the debt. Now it became definitely a matter of discriminating between the original holders and the present holders.

In his speech Madison classified the creditors in four groups. They were original holders who had disposed of their securities, original holders who still had them, present holders of transferred securities, and intermediate holders through whose hands they had passed. He said the only principles upon which a decision should be rendered were public justice, public faith, public credit, and public opinion. He dismissed the second and

²⁷ Annals of Congress, II, 1192.

fourth classes of holders and made his fight for the claims of the original holders as against the present holders of transferred securities. He said the original holders met all the conditions he had laid down.²⁸

The original holders, Madison said, had a right to expect something because they had never been paid in full for their services, money, or property. The certificates were not a fair settlement of the obligation. They may appeal, he said:²⁹

. . . to the motives for establishing public credit, for which justice and faith form the natural foundation. They may appeal to the precedent furnished by the compensation allowed to the army during the late war, for the depreciation of bills, which nominally discharged the debts. They may appeal to humanity, for the sufferings of the military part of the creditors can never be forgotten, while sympathy is an American virtue. To say nothing of the singular hardships, in so many months, of requiring those who have lost four-fifths or seven-eighths of their due, to contribute the remainder in favor of those who have gained in the contrary proportions.

Madison admitted that there was no way to do strict justice, but he wished to do something. He thought it proper to give present holders the highest market price which would give them a profit and let the remainder go to the original holders. He contended this was possible because the knowledge of the present

²⁸ Annals of Congress, II, 1193.

²⁹ Ibid., 1194.

holders could be determined by the certificates, and the original owners would be shown by the office documents. He contended that the importance of the question justified going "beyond the literal into the equitable claims against the United States."³⁰ It would not harm public credit, he said, because honesty of government and punctual payment of obligations would prevent it. He further argued that if such a case were among individuals, a court of equity would interpose to do justice.

Madison then made a motion to amend the original proposition in accordance with the idea that the present holders receive the highest market price and the original holders be paid the balance. It was claimed that this was impossible because one man in buying securities would probably take the money of several to the government and the certificates would all be in his name.³¹

Sedgwick renewed his opposition on the grounds of property rights and breach of contract. It would be a violation of contract. Such a law would be retroactive in its operation, and no ex post facto law could be more alarming than this proposition by which the rights of property were violently invaded. This

³⁰ Annals of Congress, II, 1196.

³¹ Ibid.

contract, he said, had been the price of our independence and liberty, and such an act of discrimination would impair our standing among the nations and ruin our credit. "I would only to add, that the proposed system will lay the foundation for infinite frauds and perjuries, and that it will, beyond all powers of calculation, multiply the evils of speculation."³²

Lawrence argued that this contract had frequently been recognized by the government of Confederation. In 1783, "Congress recommended certain funds to be established to pay the interest, and put the principal in a course of discharge. That this recommendation . . . made no discrimination between possessors and original holders. That the subsequent conduct of that body was conformable to this recommendation . . . [and] that they had paid interest on the securities without making any discrimination."³³ He declared that the Congress of the Confederation had been uniform in its support of these contracts, and that they were valid against the government. He believed men of property favored paying the face value of the certificates. The original holders had suffered no more than the holders of Continental money, nor than those who had lost their

³² Annals of Congress, II, 1206-1208.

³³ Ibid., 1208.

property in the course of the war. Furthermore, foreigners had purchased large sums of these securities, and all this would complicate the proposed scheme.³⁴

Smith of South Carolina contended that discrimination would take property from one class and give it to another without the assent of the one or the application of the other. The original holders had no claim. "The House has no right to sacrifice private rights to gratify humane inclinations."³⁵

Hamilton's forces asserted that the soldiers and others had parted with their claim when they foolishly transferred their certificates. Jackson retorted, "Unfortunate, foolish soldier, indeed! Why didst thou not steel thy feelings against the wife of thy bosom, and behold thy beloved children, without a murmur or an exertion, starving on a dunghill? Then thou mightest have kept thy nominal twenty shillings until it became a real pound." He added, "is this the language of mercy, or of justice? What will a man not give in exchange for his life? And if he has feelings, for that of his wife and children?"³⁶ Benson declared the soldiers would not take the difference.³⁷ He was much

³⁴ Annals of Congress, II, 1210.

³⁵ Ibid., 1212.

³⁶ Ibid., 1225-1226.

³⁷ Ibid., 1228.

concerned about the honor of the soldier in their effort to give him the face value of his certificates. But strangely enough, he never once thought of the pride and honor of the speculators who would make eight or ten to one by the bill which he was advocating.

Madison and his supporters made their appeal in equity while those against discrimination based their arguments on the sanctity of contract, and each group claimed justice was on its side. Abstract and legal justice, according to the arguments, were not the same. Although these arguments were somewhat superficial in general, a line of demarcation was very evident. Those favoring discrimination were agrarians, while the opposing element was that of business. It was a debtor-creditor argument.

Stone of Maryland showed his shrewdness again by denying that the confidence of the speculators was any consideration in the question. If he knew beforehand the certificates would be funded at par, he was guilty of fraud. If he did not know it, then he deserved only a fair return.³⁸

Madison answered Lawrence's argument that the Congress of the Confederation had accepted the certificates as valid contracts. He said that in 1783, Congress had rejected discrimination, but

³⁸ Annals of Congress, II, 1259.

that at that time certificates had not been issued to the army, and citizens at large. Transfers at that time had been confined to loan-office certificates, were not numerous, and had been made with little loss to the original creditors. But in 1790, transfers extended to a vast portion of the debt.³⁹ He also answered the argument that there was no precedent for discrimination by naming the laws of several countries where such had been done. He tried to minimize the impracticability of his plan, but here his defense was weakest. Madison had allowed himself to be sidetracked from his original argument of justice and this very much weakened his case.

On February 22, the vote on Madison's motion to discriminate between the original and the present holders of securities was defeated by 36 to 13.⁴⁰ The question of discrimination was settled, but the fight on the funding scheme was only well under way. Those who believe political parties sprang from the Alien-Sedition acts should study the opposition to Hamilton's plan as it unfolded itself.

Outside Congress, opposition to the Hamiltonian policy was beginning to show itself. On the day before the Secretary's

³⁹ Annals of Congress, II, 1263-1264.

⁴⁰ Ibid., 1298.

written report reached the House a writer raised the cry against it. "If certificates are to be raised to specie value, pray let the poor soldier and widow . . . be exempt from being taxed to raise them" To force them to pay taxes to raise the securities to par, after they had lost three-fourths or seven-eighths on such securities would be "the height of oppression, such as the King of Prussia would hardly have dared to inflict on his subjects." The consequences of raising certificates to specie value would be that "A few men in every state will be found to possess the great part of them . . . With these sums, they will be able to buy up whole squares of cities, and whole townships and counties in farms . . . The Crusade expeditions were carried on at an immense expense to preserve the Christian faith. Under an equally false notion of supporting a FAITH of another kind, our country is to be sold at public vendue to the highest bidder."⁴¹

Another writer said the certificates when issued were worth only two shillings sixpence and that they should be redeemed at that, and the remainder given to the original assignee, "to whose real merits and painful services the money was originally

⁴¹ The Pennsylvania Gazette (Philadelphia), January 13, 1790.

due" ⁴² "A Farmer" wrote that in 1777, a merchant put ten thousand pounds sterling into the securities of the government, and in 1778 his British creditor called on him to pay. His securities were worth only twenty-five hundred pounds and Congress could do nothing about it, so the merchant was forced to surrender them to his creditor for that amount. "Now, is it just that the British creditor should receive from our government £10,000 instead of £2,500, and the person from whom they were torn by the treaty of peace be abandoned to poverty . . . by his country?" ⁴³ According to another writer, foreigners had speculated in the American debt to a very large amount, and discrimination would ruin the future credit of the country. ⁴⁴

"A Friend of Substantial Justice" thought nobody had expected the government to pay the face value of the securities and that "it is no breach of faith to pay them the price they asked." He wished that abler pens were employed, because a few men "who are made rich by certain measures, obtain too soon an influence over better men than themselves, and form an early support of their own plans, can gain such an ascendancy over the

⁴² The Boston Gazette and Country Journal, February 1, 1790.

⁴³ The Pennsylvania Gazette, February 3, 1790.

⁴⁴ The New York Daily Advertiser (New York), February 3, 1790.

minds of most people, as even to foster in the bosom of our country, opinions most destructive to natural and political justice"45

If we may believe John Quincy Adams, the people of New England were opposed to discrimination. They were disgusted with the slowness of Congress. "The decision upon the subject of discrimination has met with general approbation in the circles of company where I have heard it mentioned, and from the complexion of our newspapers, I have concluded that the public opinion, of which so much was said in the debates, is here much in favor of the measure." He said Madison's reputation had suffered much from his part in the question and that Judge Dana was the only man of respectable opinion who was for him.⁴⁶

Just how much the failure to discriminate between the original holders and the present holders of securities meant is questionable, but the statement below is rather strong.⁴⁷

The motion of Mr. Madison was lost and with it the largest door was opened to the pillage of original creditors, the plunder of the public Treasury and the corruption of Congress which the history of any Government has ever seen. The immediate mischief

⁴⁵ The Virginia Chronicle and General Advertiser (Richmond), April 7, 1790.

⁴⁶ Ford, Writings of John Quincy Adams, I, 53.

⁴⁷ Thomas Hart Benton, Abridgement of the Debates of Congress from 1789-1856 (footnote), I, 228-229 n.

was some thirty millions: it was only the beginning. Assignees of claims have since been the great suitors to Congress--purchasing for a trifle, and upon speculation--pursuing the recovery by indirect means--taking no denial--and gaining in the end what was scouted at the start. It has given rise to a new profession--a new industrial pursuit, still more industrious by night than by day--hunting up claims, pressing them upon Congress; and by organization, skill, perseverance, appliances, and seductions carrying through the most unsound demands.

4. Assumption of the State Debts

With the knotty problem of discrimination settled, Hamilton's followers proceeded with the program according to Fitzsimon's resolutions and found little to check them until they came to the one concerning assumption of state debts. The matter of assumption of state debts had been considered by the Continental Congress. In 1784, elaborate rules were provided for commissions to settle the account between the several states and the United States. A proposal was brought forward at the time that the central government should provide for the state debts as well as the debts of the United States.⁴⁸ It was opposed because it did not propose to take into account debts already paid by the states as well as the unpaid remainders.⁴⁹ In 1790,

⁴⁸ Max Farrand, Records of the Federal Convention of 1787 (New Haven, 1911), II, 322-327.

⁴⁹ Ibid., III, 361.

Massachusetts and South Carolina had large unpaid debts while Virginia and New York had very small debts.

Although assumption of state debts was not taken up by Congress until February 23, it already had many advocates in the press throughout the country. On January 21, the Connecticut Courrant ran a long article on the advantages of a centralized financial system and assured the readers that the assumption of the state debts would take place.

Despite the fact that Massachusetts had much to gain by assumption, because of her large debt, the sentiment on the subject was questionable. Christopher Gore said the consequences to be derived from assumption were no more desired by the Federalists than they were dreaded by the Anti-federalists. The latter were willing to accede to any terms of the creditors rather than submit to assumption. A committee was even appointed to consider a revision of the excise law and the advisability of mortgaging it to the creditors. The creditors were numerous and important, and Gore feared they would change sides if Congress did not give them better terms than the state offered.⁵⁰

The Federalists had argued that discrimination had not been asked for, but now they undertook to pass the assumption

⁵⁰ Charles R. King, The Life and Correspondence of Rufus King (New York, 1894), I, 385-386.

resolution in spite of the fact that it had not been requested by a single state and was opposed bitterly by some of them. Furthermore, it would be an additional burden to Congress to find ways and means to support such a measure.

In the House of Representatives, the question reached a white heat immediately. The debate had hardly opened when Stone struck straight at the heart of the whole scheme. He said:

A strong binding force, exterior and interior, is supposed essentially necessary to keep together a Government like ours; and of all the bonds of political connexion, perhaps there is none stronger than that which is formed by a uniform, compact, and efficacious chain or system of revenue. A greater thought could not have been conceived by man; and its effect, I venture to predict, if adopted by us, and carried into execution, will prove to the Federal Government walls of adamant, impregnable to any attempt upon its fabric or operation.

"Wherever the property is, there will be the power." It would cause the state governments, he said, to be run by men of inferior ability, and that the government would "partake of the weakness and inability of its administration." They had been expeditious, and undoubtedly wise, politicians, but they had undertaken, without the knowledge or consent of the people, to adopt resolutions affecting their dearest interests.⁵¹

⁵¹ Annals of Congress, II, 1312-1313.

Clymer in answering Stone declared "that if a condition of absolute dependency on the General Government was to follow this measure, it would be only the anticipation of a necessary event."⁵² Stone argued that the Constitution did not warrant the assumption of the state debts and that it was for "the welfare of the States exclusively benefitted." He was sure it would weaken the states, benefit the cities, and be detrimental to the remote parts of the country.⁵³

Burke, the champion of discrimination, was found against his former colleagues. South Carolina had a large unpaid debt. He was sure that since the impost duties had been taken away that South Carolina could not pay her debt and that, "could that State have foreseen that it was doubted whether her debt should be assumed, I do not believe she would have come into the Union without an express stipulation for that purpose." He was sure the measure would do some injury to the state government but it was too late to consider that.⁵⁴

Sedgwick claimed that the inequality of the debt burden among the states would not be entertained; that men of intelligence expected an adjustment of the claims of the individual

⁵² Annals of Congress, II, 1316.

⁵³ Ibid., 1327, 1331.

⁵⁴ Ibid., 1332.

states as indispensable to the preservation of the Union, and that the evil, if it were an evil, must take place.⁵⁵

Virginia had greatly reduced her debt by funding it at a depreciated rate and by selling Kentucky lands and, hence, had only a small debt remaining. Madison moved to include along with the provision for assumption that the state should have credit for its whole expenditure during the war rather than the remaining unpaid debt only.⁵⁶ Some said that such an amendment would increase the debt enormously. There was much confusion as to the method and theory of assumption. Gerry said the motion looked upon the debts of the states when, in fact, they were debts of the United States contracted through her agents. It was, of course, evident that the states had not taken this viewpoint as many of them had already paid much of the debt from their own resources.

Smith of South Carolina argued that the debt had already equalized itself as those who did most during the war had been unable to reduce their debts since the war, while those who did least had reduced theirs. He contended that his colleague, Burke, was correct in stating that the people believed their debts would

⁵⁵ Annals of Congress, II, 1333.

⁵⁶ Ibid., 1339.

be assumed when they ratified the Constitution. He stated further that this idea was general.⁵⁷ Gerry confirmed Madison's statement that the question of assumption had come up in the Constitutional Convention but was not included because "it did not extend to the payment of that part which the states had sunk." But Burke insisted that South Carolina was not able to grapple with her enormous debt. "After wheedling us into the Union, and wheedling us out of the impost, we must consider ourselves as wretchedly duped, if we are now abandoned to our fate."⁵⁸ All these arguments show the economic necessity for the formation of the Constitution. Burke and Smith were insistent. They were sure that their debts were contracted for the "common welfare," and that it was the "common defense" that had bankrupted their state. Ames defended South Carolina. The debts were not state debts, he said, but were debts of the United States.

But it was not only an equalizing of the burden of the war that those who were in favor of assumption were working for. This is shown by the fact that they defeated, by thirty-two to eighteen, a motion to assume only that part of the debt of any

⁵⁷ Annals of Congress, II, 1357.

⁵⁸ Ibid., 1362.

state which proved to be more than its proportional burden of the war. The amount of each state would have been determined by a commission to liquidate the accounts.⁵⁹

There was much debate as to whether the assumption should include the whole debt or only the debt at the end of the war. Gerry was now found on the side of those for assumption of the debts as they were at the time. Massachusetts and South Carolina had the biggest debts, and, therefore, had the most to gain by assumption as the debts stood. Virginia, Georgia, Maryland, and New Hampshire had small debts. Pennsylvania had little to gain either way, and New York and New Jersey were willing to support Hamilton. It was a grab bag proposition out and out.

The members from Massachusetts and South Carolina argued that the exertions had equalized themselves and all they need do was to assume the outstanding debts. In order to defeat the purpose of Madison's motion, Smith of South Carolina moved to amend it to the effect that the credit allowed to the states be limited to the actual amount paid by the state on the debt, principal, and interest as provided for in the case of individuals. Madison's motion to credit the states with the whole amount of the war debt rather than only the unpaid debt was defeated.

⁵⁹ Annals of Congress, II, 1354.

The motion as amended was voted down by 22 to 28.⁶⁰

Several days later while still debating the question of assumption, Vining of Delaware, declared, "In viewing this subject as an abstract question of finance . . . I confess I behold it as in some degree operating injustice, and in its effects unequal; but when I consider it in a national point of view, as diffusive of general advantages, and davorable to, perhaps, the permanency as well as the interest of the Union, I am compelled to yield small local regards to a more enlarged and extensive policy."⁶¹

Numerous resolutions were offered, and amendments to the original resolutions of Fitzsimons were made. After all the amendments had been disposed of and they were ready to take a vote on the whole bill, it was moved to postpone the matter until North Carolina should send her representatives. This motion was then amended to a recommitment of the fourth (assumption) proposition. The amended motion was carried by twenty-nine to twenty-seven.⁶² The first three resolutions were agreed to by the House. All the other resolutions were recommitted

⁶⁰ Annals of Congress, II, 1406.

⁶¹ Ibid., 1420.

⁶² Ibid., 1477-1480.

and the battle raged on.

The North Carolina delegation arrived, and they were all against assumption. In the House, Williamson became the storm center. North Carolina had assumed securities to several million and it stood to lose by the federal assumption.⁶³

Bland, of Virginia, had felt called upon several times to defend himself on the floor for taking a stand against the rest of his colleagues. Now ensued a very heated debate on the subject between Colonel Bland representing Eastern Virginia and Page and Moore representing Western Virginia.⁶⁴ It was evidence of the sectionalism which was to be found in almost all parts of the country.

After numerous motions to modify the fourth resolution, it came to a vote on April 12 and was defeated by thirty-one to twenty-nine.⁶⁵

Assumption was defeated. It had been a hard fought battle in the House and one that might well have wrecked the Union in the beginning, if we may believe contemporaries. Madison wrote to Monroe that the bill had been reconsidered and defeated again.

⁶³ Annals of Congress, II, 1487-1493.

⁶⁴ Ibid., 1510.

⁶⁵ Ibid., 1525.

He said the patrons of the bill would try every conceivable way to pass it. He probably felt successful and did not dream that his work was to be undone only a short time later by a fellow Virginian. Madison was determined. He did not propose to give quarters to the threats of proponents of the bill to wreck the Union if assumption did not prevail. "We shall risk their prophetic menaces if we should continue to have a majority."⁶⁶

It was indeed a serious time. Sedgwick arose and pronounced the funeral oration. Page interrupted on a point of order and some confusion ensued. Sedgwick took his hat and walked out and Maclay says that when he returned he showed signs of weeping and that Fitzsimons' eyes were "brimful." Clymer's color became deadly white, "his lips quivered, his nether jaw shook with convulsive motions; his head, neck, and breast contracted with gesticulations resembling those of a turkey or goose nearly strangled in the act of deglutition." "The Secretary's group pricked up their ears, and speculation wiped the tear from either eye. Goddess of description, paint the gallery; here's the paper, find fancy quills or crayon yourself."⁶⁷ Sedgwick must have taken defeat

⁶⁶ Letters and Other Writings of James Madison (by Order of Congress, New York, 1884), I, 517.

⁶⁷ Maclay, Journal of William Maclay, 237-238. Also, Annals of Congress, II, 1525.

pretty hard. "Poor Sedgwick! Wonderfully exercised! He has enjoyed the satisfaction of declaring it to the world."⁶⁸

But assumption was not defeated. The fight was renewed immediately. On April 15, the House resolved itself into a committee of the whole to further consider the report of the Secretary on the Public Credit. The debate was long and heated. Those who favored assumption did not wish to leave the question as they feared it might be the end of it, and at least it would have been an admission of defeat. The vote was thirty-three to twenty-three in favor of the resolution. Of the latter votes, fifteen were from Massachusetts, New Hampshire, and Connecticut, two were from South Carolina, two from New York, and the other four were scattered, including Bland from Virginia. Not a single vote from New England was cast for the resolution.⁶⁹ This vote can not, however, be depended upon too much to show the sectional division as it was partly a tactical move.

Motions to reconsider assumption were uniformly defeated, but Madison noted "the persistence of the gentlemen who favor assumption." He assured them that failure of the measure would not endanger the Union as four-fifths of the people were against

⁶⁸ King, Life and Correspondence, 1386.

⁶⁹ Annals of Congress, II, 1530.

it. The state legislatures had nearly all been in session in the meantime and only South Carolina had made a declaration on the matter. Virginia would have paid five million dollars instead of three if assumption had carried.⁷⁰

A motion to discharge the committee from further consideration of the question found New England solidly against it, and the South, with the exception of South Carolina, solidly for it. The Middle States scattered their votes.⁷¹ The motion was carried and a bill was prepared and passed after many efforts were made to insert the assumption clause.

In the Senate the assumption clause was re-inserted, and a motion in the House to defeat the amendment of the Senate failed by a vote of twenty-nine to thirty-two. The line-up in the House on this vote was not in accordance with previous votes. Two votes from New Hampshire were against assumption, while Carroll and Gale from Maryland, and Lee and White from Virginia voted for it. This was according to Jefferson's deal. After four Southern votes had gone over for assumption, the South voted seven for and twenty against the bill; the Middle States voted eleven for and seven against; and New England voted fourteen for

⁷⁰ Annals of Congress, II, 1537-1540.

⁷¹ Ibid., 1545.

and two against.⁷² On the final bill one vote from South Carolina and one member, who had not previously voted, went for assumption.⁷³

The Senate passed the amended bill by fourteen to twelve. Virginia, Rhode Island, North Carolina, and Georgia voted solidly against the bill; while Massachusetts, Connecticut, New York, New Jersey, and South Carolina were solidly for it. Pennsylvania, Maryland, Delaware, and New Hampshire split their votes.⁷⁴

Such divisions as these are eloquent testimony to honest differences of opinion based upon geographic, political, and economic interests. Their variety and intensity made the funding of the debt the most tantalizing of all the issues confronting Hamilton, and stouter hearts than his have quailed before so arduous a task. Even a superficial understanding of the situation compels a consideration of the bill and of a few of the many questions which it presented to proponents and opponents alike.

⁷² Annals of Congress, II, 1710.

⁷³ Ibid., 1712.

⁷⁴ Ibid., I, 1016.

CHAPTER VII

FUNDING (CONTINUED)

1. The Bill

The funding bill was passed provided for funding the foreign debts, paying arrears of interest, and if possible meeting through loans a part of the principal. To care for the domestic national debt, a new loan to the amount of the debt was to be opened with loan offices established in each state. Subscriptions to the new loan were to be receivable in certificates for both principal and interest of the old debt at par, and in continental currency at one hundred to one. Subscribers of the principal were to receive two-thirds of the amount in six per cent stocks. To make this more attractive as an investment, the government was permitted to redeem only two per cent of the principal annually. The other third was to bear six per cent after the year 1800. Subscribers of certificates for arrears of interest were to receive only three per cent, and the whole amount of the stock was to be redeemable at any time. The bill also authorized a loan of \$21,500,000 receivable on principal and interest of certificates issued by the states prior to January 1, 1790. Four-ninths of this loan was to bear interest

at six per cent, beginning 1792; one-third was to bear three per cent; and two-ninths, six per cent after the year 1800.

A commission of three members was appointed to examine the claims of various states concerning unequal expenditures during the war and to determine what should be allowed. They were to debit the states with advances made to them plus interest thereon to the beginning of 1790 and to credit them with disbursements and advances and interest for a like period. States having balances to their credit were to be entitled to have them funded in the same manner as the rest of the debt. This was actually carried out in 1794.

2. Location of the Capital

On April 12, 1790, Madison and the opponents of assumption had defeated the measure. Strategy of its sponsors failed to break the narrow margin held by Madison. Those favoring assumption would not give in, but Robert Morris and others feared to force assumption into the funding bill would cause the whole bill to fail.¹ The measure was at a standstill.

Another measure was also in a deadlock. The permanent location of the Capital had been up for some time. New York wanted it,

¹ Seth Ames, The Works of Fisher Ames, I, 79.

and had made steps towards providing for it. But Pennsylvania had a better chance. At one time a bill had been passed by Congress locating the Capital at Germantown. The opposition took advantage of a late hour session and passed an amendment which postponed the matter for the time being. When the second session of Congress assembled, the scramble was resumed. In the first session of Congress, Pennsylvania had united with New England to pass protective duties, but now she was casting her lot with the South. She was accused of courting the South and preventing assumption in the hope of securing the Capital, at least temporarily. This accusation has been amply verified. The New Englanders did not care where the Capital went, but they wanted to insure assumption.

Both questions were deadlocked. It was a serious and heated affair. Ames claimed New England had been sold out by the Pennsylvanians, both regarding the Capital and assumption. "Yesterday it rained, and Governor Johnson, who had been brought in a sick bed to vote in the Senate against Philadelphia could not be safely removed in the rain." It was thought if the bill could be passed by the House and rushed to the Senate while it was raining it would pass there. Gerry and Smith filibustered, and the bill was not voted on. "We have fasted, watched, and

prayed for the cause. I never knew so much industry and perseverance exerted for any cause. Mr. Sedgwick is a perfect slave to the business. Mr. Goodhue frowns all day long, and swears as much as a good Christian can, about the perverseness of Congress."²

Bargaining was very much in vogue it seems. "I confess . . . with shame, that the world ought to despise our public conduct, when it bears intrigue openly avowed, and sees that great measures are made to depend, not upon reason, but upon bargains for little ones."³ Ames said the creditors were impatient, but he believed the advocates of assumption would not see it separated from the funding bill. It seems the creditors must have been numerous around Congress.

Things were tense in the councils of war. "Colonel Hartley kept shuffling about, still repeating that all depends on adoption of the state debts. If this is not done, New England and Carolina will fly off, and the Secretary's scheme is ruined." This was from the war council of the Pennsylvanians, in caucus. "I do not know that pecuniary influence has actually been used, but I am certain that every other kind of management has been

² Seth Ames, The Works of Fisher Ames, I, 76.

³ Ames to George R. Minot (June 23, 1790), in Ames, Op. cit., I, 81-83.

practiced and every tool at work that could be thought of."⁴

In their meeting "Clymer had a proposition to barter away the Pennsylvania vote for an assumption for Carolina and Massachusetts for an adjournment to Philadelphia."⁵

The funding bill and the location of the Capital were made dependent upon each other.

The funding bill, the basis on which speculation has built her castles, is now to come before us; and woe to him who says a word in favor of the country; make the beast of burden bear up to the utmost of his ability. I am really convinced that many a man has gone into the martial field and acquitted himself with gallantry and honor, with less courage and firmness than is necessary to attack this disposition on our Senate.⁶

June 14, Maclay went to call on the assistant of the Treasury who proposed to him that Pennsylvania have the Capital and vote for assumption. He then went to Morris who told him that "Jackson, of the President's family," and Tench Cox had both visited Clymer and Fitzsimons to negotiate a bargain. Morris did not trust the others, so he wrote Hamilton a note and told him that if he were interested, to meet him early next morning on the Battery. Morris went early and found Hamilton already there. Hamilton told Morris he wanted one vote in the Senate and five

⁴ Maclay, The Journal of William Maclay, 209.

⁵ Ibid., 237.

⁶ Ibid., 283.

in the House and that he would place the Capital at Germantown or on the Delaware. Morris agreed to consult the Pennsylvanians. Morris and Fitzsimons then had a party for Reed (Delaware) who was agreeable.⁷ The next evening the Pennsylvanians met at six o'clock and Hamilton's offer was discussed.⁸ Three days later, Morris and Fitzsimons called on Hamilton who knew Morris's bargaining power and was using him all he could. But Fitzsimons had given up hope.⁹ The bargaining continued and on June 23 Morris told Maclay it was settled. The Pennsylvanians in a meeting without Maclay had agreed to a ten year residence of the Capital at Philadelphia, and a permanent residence on the Potomac.¹⁰

Maclay thought Washington was pushing the Potomac as the location of the Capital. "It is, in fact, the interest of the President of the United States that pushes the Potomac . . . He, by means of Jefferson, Madison, Carrol, and others urged the business, and, if we had not closed with these terms, a bargain would have been made for the temporary residence in New York."¹¹

⁷ Maclay, The Journal of William Maclay, 291-293.

⁸ Ibid., 294.

⁹ Ibid., 299.

¹⁰ Ibid., 305-307.

¹¹ Ibid., 312.

He went on to say that assumption, the location of the Capital, and funding at six per cent, were all bargains contracted for on the principle of mutual accommodation for private interests, and that the President had a great influence in the business.¹² Macley thought "Too much has that influence, conducted by the interest of New England, whose naval connections throw them into that scale, governed—nay, tyrannized—in the councils of the Union." But "my consolation for going to the Potomac is, that it may give a preponderance to the agricultural interest. Dire, indeed, will be the contest, but I hope it will prevail."¹³

The question was settled. The Capital went to Philadelphia for ten years, and then permanently to the Potomac. Funding and assumption were passed according to agreement.

3. Disunion

"A Friend to the Union" said that the failure of the assumption bill had caused much excitement. He berated the demagogues who had defeated it.

Are there not in every part of the continent enemies to the Constitution who will eagerly grasp at every

¹² Macley, The Journal of William Macley, 312.

¹³ Ibid., 341-342.

occurrence which may turn to their advantage? Nay, are there not in the very bosom of this country, men who detest the American people, who sicken at the sight of our growing prosperity, whose breasts still rankle with disappointment, and rage at our glorious independence, and who yet remember that we were once a part of the British Empire?¹⁴

The writer said he had been drawn into the question "by a consideration of the present awful crisis, which threatens the very existence of a government which was the last refuge of the American patriot" The action of the House of Representatives was depressing, but "Let us however hope that while there appears so much justice, policy, fairness, equity, liberality, and federalism on one side, and so much state interest, partiality and injustice on the other, that the reason, good sense, and virtue of the majority will triumph."¹⁵ The same journal again on April 24, carried another article expressing definitely the fear of disunion.

Ames was fearful lest the failure of the funding bill would have dire effect on the government. "Without a firm basis for public credit, I can scarcely expect the government will last long. I own, my dear friend, I am sometimes ready to despond, when I think how great hazard attends those measures which are

¹⁴ Gazette of the United States (New York, Philadelphia after November 3, 1790), April 21, 1790.

¹⁵ Ibid.

essential to its being."¹⁶ Again he said, "Besides, consequences are feared. The New England States demand it [assumption] as a debt of justice, with a tone so loud and threatening, that they fear the convulsions which would probably ensue."¹⁷

On June 20, Jefferson said things had come to a standstill on both assumption and location of the Capital. He thought a mutual sacrifice of opinion and interest was the duty of every one because no bill could be passed under the circumstances, and "if they [Congress] separate without funding, there is an end of the government, in this situation of things. The only choice is among disagreeable things." He said, further, that the temporary residence at Philadelphia, and then removal to the Potomac, was the best they could do, and that if this did not take place, then there would be an unqualified assumption, and the Capital would be moved to the Delaware.¹⁸

On the same day, Jefferson wrote to Monroe in the same tone. "And in fine it has become probable that unless they can be reconciled by some compromise, there will be no funding bill agreed to, our credit . . . will burst and vanish, and the states

¹⁶ To George R. Minot (May 20, 1790), in Ames, The Works of Fisher Ames, I, 77.

¹⁷ June 27, 1790, in Ibid.

¹⁸ To Thomas M. Randolph, in Worthington C. Ford, The Writings of Thomas Jefferson (New York, 1892), V, 185-186.

separate to take care everyone of itself." He was in favor of letting the states raise the money in their own way, "But in the present instance I see the necessity of yielding for this time to the cries of the creditors in certain parts of the union, and to save us from the greatest of all calamities, the total extinction of our credit in Europe."¹⁹

The next few weeks Jefferson wrote many letters expressing the same sentiment. He said funding was a measure of necessity, and that unless it passed, something much worse would happen. There is little to show that Jefferson was very much opposed to funding at the time. Hence, it is to be concluded from his letters that he either feared the consequences of defeating the funding bill or that he was justifying his own part in the settlement of the matter, or both. But he knew the intensity of the situation. "So high were the feuds excited by this subject, that on its rejection, business was suspended. Congress met and adjourned from day to day without doing anything, the parties being too much out of temper to do business together. The Eastern members particularly, who with Smith from South Carolina, were the principal gamblers in these scenes, threatened secession and

¹⁹ To Thomas M. Randolph, in Worthington C. Ford, The Writings of Thomas Jefferson, V, 187, 190.

dissolution."²⁰

In 1792 in reply to a question on disunion Hamilton wrote:

It is certainly to be regretted that party discriminations are so far geographical as they have been, and that ideas of a severance of the Union are creeping in both in North and South. In the South, it is supposed that more government than is expedient is desired by the North. In the North, it is believed that the prejudices of the South are incompatible with the necessary degree of government, and with the attainment of the essential ends of national union. In both quarters there are respectable men, who talk of separation as a thing dictated by the different geniuses and different prejudices of the parts. But happily their number is not considerable, and the prevailing sentiment of the people is in favor of their true interest, UNION. And it is to be hoped that the efforts of the wise men will be able to prevent a schism which would be injurious in different degrees to different portions of the Union, but would seriously wound the prosperity of all.²¹

4. Criticism of Funding

The agricultural and laboring elements in the country saw in Hamilton's funding scheme a preference for the professional, industrial, and mercantile classes, and raised their protests against it. The poorer classes disliked it because they saw in

²⁰ To Thomas M. Randolph, in Ford, The Writings of Thomas Jefferson, I, 162.

²¹ Lodge, The Works of Alexander Hamilton, II, 465-466.

it the submergence of their own interests. The landed aristocrats of the South disliked it for the same reason that the landed aristocracy of England disliked the Whig principles.

The farmer saw his own ruin. "Such injustice and oppression may be colored over with fine words, but there is a time coming when the pen of history will detect and expose the folly of the arguments in favor of the proposed funding system as well as its iniquity." "The farmers never were in half the danger of being ruined by the British government that they are now by their own . . . Great Britain paid the Tories for their loyalty, although they did her cause more harm than good."²² Much was also made of the advice of Mirabeau to America to avoid the English system of funding because it created a moneyed interest which was distinct from the interest of the masses, and which was the cause of great corruption in government.²³

Hamilton's funding scheme was based on the English system whose evils were too well known in America. That system had originated with the coming into power of the Whigs when they overthrew James II and the Tories, in 1689. The debt was funded at 16,000,000 pounds and had been increased to 270,000,000 by

²² "A Farmer," in The Pennsylvania Gazette, January 27, 1790.

²³ Ibid., January 26, 1790.

1786.²⁴ Besides this increase, the perpetual principle was much disliked in America. They knew too well that such a system inevitably led to unlimited taxation. They also knew the corruption of the Whig party during the 18th century. It should not have surprised Hamilton and his associates that such a system would be looked upon with suspicion, and more particularly because of the hostile feelings from the Revolution had not yet subsided. It was a common opinion among many Americans at the time that England was sinking into a gulf of indebtedness which would be her ruin.

A "money power" had grown up in England under the succor of the Whigs, and had been used to destroy the power of the Tories.²⁵ The bank and funding system had been the chief instruments used by the Whigs, and it was not clear to the opposition that Hamilton's scheme would not lead to the same thing in America.

John Taylor of Caroline County, Virginia, was one of the most bitter foes of the whole Hamiltonian plan. It was argued by some of those in favor of funding that a public debt would

²⁴ National Gazette, March 26, 1792.

²⁵ George Bancroft, History of the United States (Boston, 1840), III, 8.

give permanency and weight to the government. But John Taylor believed it would enable the government to control the will of the people "by counter-balancing it with the weight of wealth."²⁶ Also, it would diminish the powers of the states and tend to consolidate them in the central government, as well as to create an influence by which those consolidated powers could be managed. It was only a political object to interest the attention of the individuals "whilst the state governments will become only speculative commonwealths. . . without pulsation, without elasticity they will dwindle gradually into a tale that has been told, and their parts will crumble and dissipate, like a corporation of beavers, whose waters have been drained away."²⁷

Taylor believed a money system was the natural enemy of the state. "Accumulation of enormous wealth in a few hands, by legal legerdemain, is destructive of that equality among citizens, which the State constitutions contemplate . . . A few dwarfs are suddenly metamorphosed into giants, by a paper necromancy, and the rest of the community . . . are enchanted by syren notes, into an insensibility of their danger." He says that by 1794,

²⁶ John Taylor, An Inquiry into the Principles and Tendencies of Certain Public Measures (Philadelphia, 1794), 42.

²⁷ Ibid., 43.

some men had gained from \$100,000 to \$1,000,000.²⁸

Taylor also believed that this financial system tended to build up a social order of King, Lords, and Commons such as existed in England, and that this could not be for the public good. "Whereas by taking the people as the only genuine and legitimate fountain of power, and by avoiding legal artifices producing an inequality of wealth or privileges, we escape the black train of evils recorded in history, as having been in most ages and governments, engendered by combinations of nobles to oppress the people."²⁹ He would not believe America wanted such a system. They knew too well that established religions, bishops, tithes, and standing armies were scions of the same stock and that they were all concomitants of aristocracy. "The people are the only safe guardians of their own liberty, and social jurisdiction, the only impartial corrector of unconstitutional designs."³⁰

In defending the funding system, Hamilton later gave the following arguments as inducements to providing for the public credit:³¹

²⁸ Taylor, An Inquiry into the Principles and Tendencies of Certain Public Measures, 44.

²⁹ Ibid., 49.

³⁰ Ibid., 53.

³¹ Lodge, The Works of Alexander Hamilton, II, 436-437.

1. To preserve the public faith and integrity by fulfilling the public engagements.

2. To manifest a due respect for property by satisfying the public obligations in the hand of the public creditors.

3. To revive and establish public credit, the palladium of public safety.

4. To preserve the government itself, by showing it worthy of the confidence which was placed in it, and to procure to the community the blessing which attend confidence in the government.

The reasons for assumption, he said, were:

1. To consolidate the finances of the country and bring about an orderly control instead of the scrambling for revenues which would have attended the many state systems.

2. Secure to the government of the United States an effectual command of the resources of the Union for present and future exigencies.

3. To equalize the condition of the citizens of the various states taking into account the exertions made during the war.

The above statements were made by Hamilton in the preface to answers to a series of questions sent to him by Washington on July 29, 1792. While Washington had been visiting in Virginia,

he had heard the objections, largely from George Mason, and he wished Hamilton to write answers to them. Hamilton did so, but his arguments were mere restatements of previous explanations. The objections on the whole were not very important. The twelfth objection stated that a sufficient portion of Congress had been corrupted by the funding system to turn the balance in favor of Hamilton's plan. If we consider that there were two large opposing groups in Congress who were not influenced by their own holdings in securities, then it becomes evident that a few who were influenced by their own holdings could turn the balance in either direction. According to the votes, the evidence is in favor of the accusation. Of the fourteen in the Senate who voted for the bill, eleven were security holders, and of the twelve who voted against it, only five held securities. In the House of Representatives, of the thirty-two who voted for the bill, twenty-one were holders of securities, and of the twenty-nine who voted against it, only eight were holders. Hamilton believed the number of Congressmen who held securities was small. But Professor Beard found that forty-five of the eighty-seven voting on the bill were holders.³² Even if they

³² C. A. Beard, "Economic Origins of Jefferson Democracy," in American Historical Review, January, 1914.

did hold securities, Hamilton thought "It is a strange perversion of ideas, and as novel as it is extraordinary, that men should be deemed corrupt and criminal for becoming proprietors in the funds of their country."³³

The thirteenth objection which Washington presented to Hamilton stated that the "corrupt squadron" in Congress had manifested a disposition to get rid of limitations imposed by the Constitution on legislative action, even though this limitation was the general faith on which the states had agreed to the union. To this objection Hamilton merely answered that those objections assumed that their interpretation of the Constitution was correct and all others wrong.³⁴

The fourteenth objection was to the effect that the ultimate object of the whole plan was to prepare the way for a monarchical form of government of the English type. Hamilton simply asserted that the idea was absurd.³⁵

In his "vindication of the Funding System," written probably in 1791, Hamilton stooped to pour out his wrath on those who opposed him. To quote in part:³⁶

³³ Lodge (Federal Edition), The Works of Alexander Hamilton, II, 454-458.

³⁴ Ibid., 458.

³⁵ Ibid., 459.

³⁶ Lodge, The Works of Alexander Hamilton, III, 6-7.

There is yet another class of opponents to the government and its administration, who are of too much consequence not to be mentioned; a sect of political doctors; a kind of POPES in government; standards of political orthodoxy, who brand with heresy all opinions but their own; men of sublimated imaginations and weak judgements; pretenders to profound knowledge, yet ignorant of the most useful of all sciences--the science of human nature; men who dignify themselves with the appellation of philosophers, yet are destitute of the first elements of true philosophy; lovers of paradoxes; men who maintain expressly that religion is not necessary to society, and very nearly that government itself is a nuisance; that priests and clergymen of all descriptions are worse than useless. Such men, the ridicule of any cause they espouse, and the best witnesses to the goodness of that which they oppose, have no small share in the clamors which are raised, and in the dissatisfactions which are excited.

The hope of the Hamiltonian group that the wealthy classes would be drawn to the support of the government was one of the major principles on which they calculated its success. "A national debt attaches many citizens to the government, who, by their numbers, contribute more perhaps to its preservation than a body of soldiers." It would not only prolong the existence of the form of government, but would have a tendency to produce a wise and just administration. "It only remains to calculate the influence this body of men will have, first, upon public opinion, and next upon the government itself. In this country, they are powerful by their numbers; by their property; by their patriotism; for it was that which made great numbers of them public creditors."³⁷

³⁷ Gazette of the United States, April 24, 1790.

One of the greatest objections to the funding system was that it would lead to excessive taxation. The opposition knew that the British system of funding had been abused and that the debt had increased for a hundred years with a consequent extension of the system of taxation. They saw in the funding system the taxation of "every article imported, and already has it begun on the produce of the country" ³⁸

It was assumption of the state debts that gave the deepest stab at the hopes of Republicans. It was no argument to their minds that these debts actually existed, that they had been contracted for the common defense, and that means of payment could more easily be found by the Union than by conflicting, and often inadequate, provisions of single states. They were conscious that in the future a powerful body of creditors would look to the Union, and not to the states for payment. ³⁹ Thus the federal government would become the more powerful.

Jefferson declared Hamilton's financial plan was intended to puzzle and exclude popular understanding, and as a machine to corrupt the Congress. Hamilton believed that the best way to

³⁸ National Gazette, March 26, 1792.

³⁹ Gibbs, Administrations of Washington and Adams, I, 77-78.

govern men was to appeal to their interests. By this method members of Congress could be kept in harmony with the executive. "And with grief and shame it must be acknowledged that his machine was not without effect."⁴⁰ "Men thus enriched by the dexterity of a leader, would follow of course the chief who was leading them to fortune, and become the zealous instruments of all his enterprises."⁴¹

Speculation in the securities was a natural consequence of the funding, and the results were the same whether it was intentional or not. Of course, the remote parts of the country were made to suffer more because they could not know of the government's action until speculators had gathered up most of their securities. Then they were more bitter than ever. "If they have done a single act whose object was, to promote the interest of the yeomanry of the United States, by securing to them better markets for the fruits of their industry, let it be made known; that like a gleam of light, it may shine through the dark catalogue of imports, excises, loans, funds, banks, and bounties; about which they have been so exceedingly busy for the professed purpose of raising stock."⁴²

⁴⁰ Ford, Writings of Jefferson, I, 160.

⁴¹ Ibid., 161.

⁴² National Gazette, April 5, 1792.

The conflict which arose over Hamilton's financial system was not directly a conflict between industrialism and agrarianism. Industrialism was not yet developed sufficiently to be linked up with the financial interests as it has been in more recent times. "By this system [funding]. . . the farmer, manufacturer, the mechanic, and every other class of valuable citizen, must contribute to the maintenance in idleness and luxury of a monied aristocracy, whose mode of acquiring their wealth will reflect eternal infamy on themselves and the government which prostituted its authority to legalize such corruption." And, further, "This system conceived with views, at once the most mercenary, and the most unfriendly to liberty would never have been adopted, had it not been for the inexperience of Congress at that time in financial matters," and because of the large purchases of the public debt by its members.⁴³

John Taylor did not think the funding system was devised for national defense.

National defence, was never the true cause of any funding system; no funding system ever defended a nation. It was invented in England to prop a revolution by corruption; extensively used to sacrifice the nation to German interests; and it has continued to feed avarice, and silently to revolutionize the revolution. It was introduced into America, after the

⁴³ "Features of Federalism," in Duane Pamphlets (Wilmington, Delaware, 1803), 53:9.

nation had been defended, to enrich a few individuals, and also to revolutionize the revolution.

He says that Walpole had used a paper system to give wealth and political power to the Whigs, and it had succeeded until the rich Tories were impoverished and a vast change of wealth had taken place.⁴⁴

Taylor declared that in America the same thing had taken place and had "operated upon the landed Whigs here, exactly as it had done on the landed Tories in England. It taxes them, enriches a credit or paper faction; changes property; forms a party; and transforms its principles as in England." He was sure that "Avarice, and a conviction of its power as a political engine, suggested its introduction; and events have proved that this conviction was correct. It is an engine which is able to usurp and hold a government; therefore it will contend for dominion." It was an engine with no interest in land, labor, or talents, and it could not be their friend. And, furthermore, if a nation whose lands were worth one hundred million dollars, borrowed and funded that sum, "it has only sold or mortgaged its lands to stockholders up to their value, who receive the rent in the name of interest or dividends."⁴⁵

⁴⁴ John Taylor, An Inquiry into the Principles and Policy of the Government of the United States (Fredericksburg, 1814), 253.

⁴⁵ Ibid., 254.

In comparing the results of the English paper system and the French Revolution, Taylor asked, "Is one mode of confiscation reprobated, because it is an open robber, which quickly ends the pain of its victim; and the other suffered, because it lies hidden under deceit and complexity, and inflicts show and lasting tortures?"⁴⁶ He said that in America "division and responsibility" were the chief pillars of civil policy and that the accumulation of wealth by law was averse to this policy. Out of it would grow an influence over Congress which would deprive the people of their power over it.

Taylor believed that Congress, by its own choice, had created a financial interest and secured the subjection of agriculture. This had been done by charters for the accumulation of paper wealth and by laws dividing estates. "The laws of distribution therefore aggravate the evils of a paper monopoly, whereas those for dividing lands diminish the evils of a landed monopoly." Under such laws, income and leisure would decrease for agriculture and increase for the financial interests.

This superiority of talents and wealth will invest individuals, and cities in which they will chiefly reside, with an influence, well calculated to acquire an ascendant over the landed interests,

⁴⁶ Taylor, An Inquiry into the Principles and Policy of the Government of the United States, 255.

gradually impoverished by division. And though this landed interest may not suddenly sink into an ignorant, scattered, disunited peasantry, taxed by paper operations, to enrich, instruct and elevate a new specie of feudal capitalists, yet the tendency of the system is exactly to that point, and the arrival of an unobstructed tendency, is inevitable.

There can be but two classes under such a system, debtors and creditors. This would make a system of Spartans and Helots with one living in idleness upon the labors of the other. In order to avoid such consequences, wealth must be considerably distributed, lest it destroy the principles of a democratic republic.⁴⁷

Imaginary gods and empty titles are to be dreaded, but "A pecuniary interest, quartered on nations by law, is here the engine of power and oppression. Unnecessary office, sinecure incomes, stock-jobbing by the lawmakers, a legislative patronage of separate interests or factions, and a concentrated power to tax, to incorporate, to borrow and receive, make up the convolutions of a serpent, which is silently and insidiously entwining liberty; and to divert our attention from the operation, we are terrified by the dead skeletons of the ancient aristocratical mammoths."⁴⁸ But we are blinded by names. "The new system of

⁴⁷ Taylor, An Inquiry into the Principles and Policy of the Government of the United States, 262-263.

⁴⁸ Ibid., 276.

oppression conceals itself, by calling patronage, necessary office; a funding system, faith and credit; and a banking system, an encouragement to commerce." The new system renounces titles that it may be thought to renounce aristocracy. It renounces disorder that it may be thought to have regard for private property. But "Property is more securely and permanently invaded and transferred, by a regular and orderly system than by occasional and disorderly violation."⁴⁹

There are two methods of invading private property. The poor plunder the rich suddenly and by violence. The rich plunder the poor slowly and legally. "One begets ferocity and barbarism, the other vice and penury, and both impair the national prosperity and happiness, inevitably flowing from the correct and honest principle of private property."⁵⁰

There was some doubt in high places, even among Hamilton's intimates. Oliver Wolcott, Comptroller of the Treasury, and successor to Hamilton as Secretary of the Treasury, had some misgivings. "The system of funding the public debt is, in my opinion, too intricate, and the part which is to be funded, at a future time, will nourish improper speculations, perpetuate

⁴⁹ Taylor, An Inquiry into the Principles and Policy of the Government of the United States, 277.

⁵⁰ Ibid., 280.

the ideas of depreciation, and will be transferred to foreigners at a low rate. The country will be charged with a heavy debt, and will receive but a small consideration."⁵¹

In the autumn following the passage of the funding bill, the Virginia legislature passed a series of resolutions condemning assumption as repugnant to the Constitution, as dangerous and subversive to the interests of the people, as imposing an undue tax burden on those states that had paid a part of their debts, and as erecting and perpetuating a moneyed interest and prostituting agriculture at the feet of commerce. It was considered dangerous to American liberty. Also, by taking from Virginia taxes to pay the burden of debt of the other states, it would extort from her General Assembly the power of taxing her own constituents in a manner best suited to their own needs and convenience. It was stated, too, that it would discriminate in favor of the holders of Continental securities, where states had paid the interest, because there would be no interest on state debts to compound. This memorial, addressed to Congress ended by protesting that the act went beyond the delegated powers of the federal government and by asking that Congress

⁵¹ Gibbs, Administrations of Washington and Adams, I, 50.

repeal the part of the funding bill which related to assumption.⁵²

In December, 1790, the House of Delegates of Maryland voted that the bill "is a measure dangerous in its consequences to the governments of the several states." It was also voted that it was particularly injurious to Maryland. But a vote that it was unconstitutional failed by 26 to 33.⁵³

Something more than the legal and logical aspects of the question must be considered. Those who had risked their lives and given their wealth for the cause of American liberty naturally felt that they deserved some consideration more than the bill provided. No doubt most of those to whom the securities had been issued had been forced to sell them, as is the usual case, at as low a rate as two and one-half shillings per pound. These certificates had accumulated in the hands of those who had cash to buy them. That the original holder had legally transferred his claim made no difference in his economic standing or the way he felt about the matter. It did not appear to him to be simple justice that with his support of the revolution,

⁵² American State Papers: Finance, I, 90-91.

⁵³ Gazette of the United States, December 29, 1790.

and the hardships he had suffered, he should now be called upon to pay taxes that those who had purchased the securities which he had been forced to sell for something like one-eighth of their value, should be paid their full value. He had lost seven-eighths of the value of his securities already, and now he must pay taxes that they might be redeemed at par. Is it possible, by any span of the imagination, to suppose that the large land-owning taxpayers could be made to see the justice of such a measure?

Up to 1788, certificates were worth about one-eighth of their face value. Had a man bought \$300 worth during that period, they would have been worth according to the market price, about \$1,900 at the end of 1791. In other words, they were worth about four-fifths of their nominal value in 1791.⁵⁴ Interest on his original investment up to the year 1800 would be 32%, and after 1800 it would be 48%. It would not be difficult for the veterans of any war to see gross injustice in such a plan. Likewise the agricultural and laboring elements could see only taxation of themselves for benefits in which they did not participate.

As Oliver Wolcott well said: "The circumstances create

⁵⁴ "Hamilton Papers" (MSS.), Vol. 10, January, 1791.

different sentiments, both with respect to the justice of the debts and the obligations of the government to discharge it, and as a political tie of union the arguments which recommend a funding system to one party disgrace it in the opinions of the other."⁵⁵

While echoes of the debate over the funding bill were dying away, men plunged into an orgy of speculation which cast its shadow over the future. Speculation in certificates was only the beginning. In the course of time it extended to all kinds of stocks and in certain centers wrought havoc to the tranquil pursuits of business and industry.

⁵⁵ Gibbs, Administrations of Washington and Adams, I, 47.

CHAPTER VIII

SPECULATION

1. Early Stages of Speculation

The speculation which resulted from Hamilton's policy will throw some light upon the prevailing public opinions of the two opposing sides to the controversy. Neither the soundness of the arguments nor truth of the assertions is as important here as are the reasons for support of, and opposition to, the program. This speculation brought forth much opposition but was what would normally be expected today.

While land speculation was only incidental to Hamilton's financial policy, it does show the spread of speculation. But land speculation had begun long before Hamilton was a power in politics. There is little doubt, also, that speculation in securities was going on to some extent even from the time they were issued. But the orgy of speculation in securities of the war, in bank paper, and on the New York Stock Exchange was no doubt in a large measure a result of Hamilton's fiscal system.

A reputable authority¹ implies that Hamilton's plan for

¹ J. B. McMaster, History of the People of the United States (New York, 1883), I, 570.

refunding the national government debt and of assuming the state debts was unknown prior to his report to Congress. While this may have been true for the masses, the men who knew the affairs of government and who knew Hamilton's opinions, should have expected such a move, and many of them did.

The matter even came up in the Constitutional Convention in 1787.² At the time, Pierce Butler of South Carolina would have discriminated between the "blood-suckers" (speculators) and other creditors.³ While the Convention was in session, the Symmes Company was buying up securities as is shown by the fact that they paid into the Treasury over eighty thousand dollars in payment for Western land.⁴ Also, in 1787, the Ohio Company of Associates, composed of New England veterans, secured from Congress, through Manasseh Cutler, a tract of a million and a half acres of land on the Muskingum for a million dollars in certificates of indebtedness held by the members. These securities were worth about twelve cents on the dollar at the time.⁵

² For resolutions to assume state debts in the Convention of 1787, see Madison's Papers, III, 1356-1358, 1378.

³ Ibid., III, 1412.

⁴ American State Papers: Public Lands, I, 104-106.

⁵ "Hamilton Papers" (MSS.), X, January, 1791.

About the same time, Patrick Henry and a few Virginia associates obtained a grant of land on the Yazoo in the Mississippi country. They bought up Georgia paper money and certificates to turn into the treasury at par in payment. The treasurer refused to take the securities and the legislature granted the land to another company. When assumption of state debts was accomplished and the Georgia certificates were exchanged for United States bonds at par, Henry was made financially independent.⁶ At this time the majority of the Southern planters were deeply in debt from having invested everything in lands and slaves and had no money left with which to speculate in securities.

One of the most notorious land schemes was the Scioto Company in which some of the members of Congress were interested. It had a brief but disreputable career. Land speculation schemes were numerous and the provisions of the Ordinance of 1787 worked to the disadvantage of the small buyer and really encouraged land speculation.

There is much evidence that both funding and assumption were expected before Hamilton's report to Congress was made. On June 7, 1789, Christopher Gore wrote to Rufus King:⁷

⁶ W. W. Henry, Life, Correspondence and Speeches of Patrick Henry (New York, 1891), II, 512.

⁷ King, Life and Correspondence of Rufus King, I, 362.

Till the intention of Congress is known relative to the assumption of funds, the states cannot, with propriety, make any arrangements for the payment of their debts. If the national government could assume the different State debts, the consequence I should presume would be greatly beneficial to America.

In the next sentence of the above quotation Gore revealed the real motive of those who, other than speculators, were sponsoring Hamilton's plan. He stated that if assumption were attempted, it must be done speedily. "That it will tend to consolidation of the union will presently be foreseen and therefore objected to by State demagogues."

On September 20, 1789, Noah Webster admitted to John Greenleaf, whose sister he was about to marry, that he was kept from speculating only because he did not have the funds. At the same time, he informed Greenleaf of what he called, "the outdoor talk of Col. Duer, the Vice-Secretary" that the debts would be funded, and "it is in contemplation to establish a National Bank," and advised him that "this will be your time for speculation."⁸

Hamilton was appointed Secretary of the Treasury in September, 1789, and on September 21 of the same year, Congress passed a resolution calling on the Secretary to prepare a report on

⁸ E. E. F. Skeel, Notes on the Life of Noah Webster (New York, 1912), I, 203-204, 217.

finances to be ready for the meeting of Congress in January, 1790.

The Connecticut Courant on October 5, 1789, after stating that "The foreign and domestic debts of the United States are now no longer to be provided for by the several states," presented numerous arguments in favor of assumption of state debts. It further stated that "The probability that this will soon take place, is reason for our not taking any extraordinary measures at present for raising a revenue." The writer felt that there was "no necessity of taking such measures as will injure our commerce, or interfere with the operation of the general government."

In a letter written from Boston on December 22, 1789, the author "would hint to the holders of public securities, both continental and state, the impropriety of parting with them for a Song, as they rise rapidly every day." He also stated that a London merchant recently sent to "a gentleman in this town" twenty thousand pounds sterling for the purchase of public securities.⁹

Whether Hamilton did or did not give out information as to the nature of his report before having made it to Congress,

⁹ New York Daily Advertiser, January 1, 1790.

there were many at the time who believed he did. "It is wished to sacrifice the many for the few--to make noblemen and nabobs of a few New York gentlemen at the expense of all the farmers in the United States." The writer said he once thought that Philadelphia, Boston, and other large towns would share the plunder of the country with New York, but "I now see that New York, from being let early into the secrets of the treasury, is to have all the benefits of the funding scheme. South and North Carolina and Georgia, who all gave pure Whig blood for their certificates, are to be cajoled out of them by a few rich New York Tories and British agents, who perhaps helped to feed the very armies that destroyed the Southern States."¹⁰

From another source we hear that "Anticipation was so violent, that the Secretary's plan had got many advocates three months before it could be known to the public. About forty persons in Philadelphia, forty more in New York, thirty in Boston, ten or a dozen in Baltimore, and half a dozen in Charleston, possessed themselves of the proportion of public securities." The author went on to criticize another writer for upholding Hamilton's plan. "I cannot conceive a being more

¹⁰ The Boston Gazette and Country Journal, March 5, 1790.

deserving of our abhorrence and contempt, than a writer who exerts the talents allotted him by heaven in defense of bad doctrine, and prostitutes his pen to serve a faction."¹¹

Maclay, Senator from Pennsylvania at the time, believed that Hamilton had communicated his plans to Morris and Willing prior to its submission to Congress. "If I needed proof of the baseness of Hamilton, I have it in the fullest manner. His price was communicated in manuscript as far as Philadelphia." Maclay's conclusions were taken from a letter written by Thomas Willing to the Speaker of the House of Representatives from which he quotes: "For I have seen in manuscript his whole price, and it has been used as the basis of the most abandoned system of speculation ever broached in our country."¹²

According to Bowers, Hamilton's plans, "given in confidence to some, were soon whispered among the politicians and merchants of New York, Philadelphia, and Boston, and the market price of public securities in the cities rose fifty per cent two months before Congress convened."¹³ According to calculations made by Hamilton in January, 1791, securities about doubled in price between 1784 and the summer of 1789. From September to November,

¹¹ The New York Daily Gazette, February 10, 1790.

¹² Maclay, Journal of William Maclay, 188.

¹³ Claude G. Bowers, Jefferson and Hamilton (New York, 1925), 44.

1789, they rose gradually. But in December they rose about thirty-five per cent.¹⁴

Again Bowers paints a glowing picture of the galleries when Congress convened in January, 1790.

In the galleries of the House eager spectators were closely packed. They overflowed and filled the lobbies. Some were drawn by curiosity . . . but the greater number were speculators, who, in anticipation of such a recommendation, had bought freely of the skeptical holders at ridiculously low prices. Not a few of these poured forth into Wall Street at the conclusion with the exhilarating knowledge that a fortune was within their grasp.¹⁵

More conservative writers believed the crowded galleries to be composed largely of merchants and shopkeepers.¹⁶

On the same day that Hamilton's report was taken up, Senator Maclay recorded in his diary that "An extraordinary rise in certificates has been remarked for some time past. This could not be accounted for, neither in Philadelphia nor elsewhere. But the report of the Treasury explains all. He [Hamilton] recommends indiscriminate funding, and, in the style of a British Minister, had sent down his bill. 'Tis said a committee of speculators

¹⁴ "Hamilton Papers" (MSS.), X, January, 1791.

¹⁵ Bowers, Jefferson and Hamilton, 44.

¹⁶ See McMaster, History of the People of the United States, I, 570.

could not have formed it more for their advantage . . . It has occasioned many serious faces. I fell so struck of a heap, I can make no remark on the matter."¹⁷

Maclay thought Robert Morris was deeply involved in the speculation, for his partner, Mr. Constable, of this place, had one contract for forty thousand dollars worth. General Heister, also from Pennsylvania, had brought over some money for Morris for the purpose of buying certificates. Maclay concluded that "there is no room for doubt but a connection is spread over the whole continent on this villainous business." That evening as he walked, everywhere he went they were talking of speculation.¹⁸

Maclay called at the home of Mr. Hazard where another Pennsylvania Congressman was lodging. Hazard told him he had followed buying securities as a business for some time. Maclay suspected it was for Morris and might have learned much more but for a bad blunder which embarrassed both of them.¹⁹

The Speaker of the House of Representatives who was also from Pennsylvania believed that Fitzsimons, from Pennsylvania, was also involved in speculation, and that he and Morris had both

¹⁷ Maclay, Journal of William Maclay, 177.

¹⁸ Ibid.

¹⁹ Ibid.

remained away from Congress for that purpose.²⁰ If Maclay's suspicions mean anything, the New Yorkers were not the only ones who knew about Hamilton's plans before the report was made to Congress. Regardless of how many or how few had previous information, after the report was made, speculation began on a large scale.

Four days after the report, Maclay recorded that, as Hawkins of North Carolina came up, he had met two expresses loaded with large sums of money on their way to North Carolina to buy up certificates. Wadsworth had also sent two vessels to the South for that same purpose. Maclay feared "the members of Congress are deeper in this business than any others."²¹

Hamilton's report made in pursuance of the resolution of Congress had been received in the House on January 14, 1790, and postponed for two weeks. When the bill came up, a debate arose over further postponement. In the course of the debate, Jackson of Georgia said that since the report had been made, "a spirit of havoc, speculation, and ruin" had arisen among those who had access to the information of the report. Three vessels

²⁰ Maclay, Journal of William Maclay, 177.

²¹ Ibid., 178.

had sailed within two weeks for the Carolinas and Georgia for the purpose of buying up the securities of the uninformed. "My soul rises indignant at the avaricious and immoral turpitude which so vile a conduct displays."²²

In reply to Jackson's statement Sherman of Connecticut said such speculation had been the case since the certificates were first issued and that it would probably continue until the holders were satisfied with the arrangements made for their payment.²³ Sedgwick of Massachusetts did "not believe speculation to a certain degree baneful to society."²⁴ Gerry, also of Massachusetts, did not believe it possible to stop speculation; and if it should be done, it would be an injury because speculation gave currency to property that would otherwise lie dormant.²⁵ Another speaker argued that there was no violation of either moral or political law in speculation and declared it was done under all governments the world over.

On the question of postponing Hamilton's report, less than

²² Annals of Congress, I, 1094. In referring to the vessels Maclay had mentioned only two. Most references mention three.

²³ Ibid., 1096.

²⁴ Ibid., 1097.

²⁵ Ibid., 1098.

a dozen congressmen took part, although it had been reported two weeks, and only five mentioned speculation. If speculation was as rampant as it seems to have been, how could congressmen have taken so little interest in it? Either they must have been accustomed to it, or they were not seriously opposed to it. Nor was there any objection as yet to funding the debt. Madison, who later became its arch foe because he believed it manifestly unjust, did not even make a comment at this time.

During the first session of Congress, the House had ordered in its resolution "That this House consider an adequate provision for the support of public credit as a matter of high importance to the national honor and prosperity," and had ordered Hamilton to prepare a plan for the purpose. It also ordered the Secretary of the Treasury to secure from the governors of the various states reports of their public debts, and any provisions that might be made to care for them.²⁶ From this resolution, it seems that it should have been recognized, at least by all public men, that the funding of the national debt would be considered as the means of accomplishing its purpose, and that even the state debts would come within the scope of the resolution. That Senator Maclay "fell struck of a heap" when Hamilton recommended

²⁶ Annals of Congress, I, 904.

indiscriminate funding shows either an incredulous simplicity or an unusual touch of the dramatic.

Many others expressed much surprise at the plan presented by Hamilton. Of course, it should be remembered that only those around the cities had much access to any kind of current information, and this will explain, in a measure, the reason for the lack of information on the part of the entire "back country," and most of the South.

2. Certificate Holders

The extent to which the certificates had changed hands up to the time of Hamilton's report cannot be known. One journal²⁷ contended that most of them were still in the hands of the original owners, although many had transferred them for the purpose of speculation. But Gerry was of the opinion that "the business was now carried on between speculator and speculator; it was they only who buy and sell securities at the present day."²⁸ This would imply that most of the original holders had sold their securities. The abovementioned journal²⁹ came back to the

²⁷ Gazette of the United States, February 10, 1790.

²⁸ Annals of Congress, I, 1102.

²⁹ Gazette of the United States, February 27, 1790.

argument. "It has been mentioned that the greatest part of the public debt is in possession of about one hundred persons. This surmise is without any foundation. There are, it may be presumed, not less than twenty thousand proprietors of our domestic debt."

Regardless of ownership of the securities, they now began to rise in price, and no doubt changed hands rapidly. Hamilton's calculations³⁰ in January, 1791, showed that from early December, 1789, the securities rose and fluctuated more or less with the prospects of passing the funding bill. On July 16, the bill was finally passed, and by the following December the securities were about doubled in price and were approaching par.

As Congress was busy with the funding bill and Madison's proposal to discriminate between the original holders and the present holders, the public press, as well as the public in general, was much concerned over the same questions. The Gazette of the United States seemed to become the chief sponsor of the administration's program. It argued³¹ that in innumerable instances the debts were contracted at four times the value of supplies furnished. Of course, it is hard to see how this would

³⁰ "Hamilton Papers" (MSS.), X, January, 1791.

³¹ Gazette of the United States, January 27, 1790.

justify the speculation. But it was on better ground when it argued that "many a soldier would have starved in the street, with ten pound notes in his pocket, had it not been for purchasers" of securities.

Again the same paper³² argued that had it not been for the principle of negotiation, and the hope of future payment, the paper of the United States government would have been still-born. The men who bought the certificates were men of financial standing who risked everything to prop up the credit of the infant government. While the above was undoubtedly true for many of those who bought certificates during the war, it was no reason for considering speculators in 1790 as patriots.

The Gazette of the United States contended that those who sold their certificates early got a good price for them. It did not believe the army in general had any reason to complain. It was from these that the most of the complaints came, however. The heaviest losses, it believed, had been by the intermediate holders. "There were many traders and speculators about the main army, who raised a competition in the purchases, and operated in favor of the soldier." But this had not happened in the South because there were no such speculators; and, hence, the Southern

³² Gazette of the United States, January 30, 1790.

soldiers made a great sacrifice in the disposal of their certificates.³³

The United States debt was largely held by wealthy men in the Middle and New England States where there had been available cash with which to buy the securities. This, of course, gave the South a more intense feeling against the funding system as it stood to gain nothing. At the same time, it gave a more intense demand from that section where the securities were held for their funding. By the very nature of the case it became sectional to the utmost.

3. Speculation on a Large Scale

"Mr. Gore is one of those men whom Cardinal Richelieu would have employed in public affairs." Gore had made an independent fortune by speculating in public securities. Wetmore, Amory, and Harrison Gray Otis all of Boston made large sums by speculating with "money deposited in their hands; and by temporary possession of property belonging to foreigners have been able to make an equal amount before called on for payment."³⁴

³³ Gazette of the United States, February 24, 1790.

³⁴ Ford, Writings of John Quincy Adams, I, 28.

Fisher Ames related in a letter to Thomas Dwight under date of December 12, 1790, a case of robbery in which some \$30,000 worth of certificates were stolen. Ames, Oliver Phelps, and Dalton had landed in Philadelphia, left their baggage in a stage office, and had gone to a tavern for tea. Phelps' baggage was robbed of \$20,000 in securities belonging to a friend and eight or ten thousand of his own.³⁵

On December 14, Hamilton presented to Congress his report recommending a bank. This bank scheme authorized the subscribers of stock to pay three-fourths in securities and caused a considerable rise in the prices of such certificates. Jefferson³⁶ watched the happenings with an eagle eye and predicted that the bank and excise bills would pass. He lamented that there were no more agricultural representatives as this was the only corrective of the corruption in the government. In spite of Federalists' successes, Jefferson had faith in the future outcome of his own ideas of government. "On this I build my hope [more agricultural representatives] that we have not labored in vain, and that our experiment will still prove that men can be governed by reason."

³⁵ Ames, Works of Fisher Ames, I, 89.

³⁶ Ford, Writings of Thomas Jefferson, V, 275.

By the middle of the summer of 1791, speculation in New York and Philadelphia was rampant. Men of all ranks were paying excessive rates of interest on loans. "If a man had no stock, he might as well shut himself up in his cellar."³⁷ Business men complained of lack of business.

By August, securities had gone above par. On August 10, bank paper sold as high as 280 in New York, and on August 11, at 320 in Philadelphia. The next day the market crashed.³⁸ Of course, the losers blamed the government. It was the work of an "aristocratical engine." It was said to be the work of certificate men, tools of the ministry, aristocrats, and conspirators against liberty. Those who lost were victims of "scripophobia" and "scripomania," and the symptoms were a long face, a pale complexion, deep silence, a light purse, and a heavy heart.³⁹ Such a wild frenzy of buying and selling was, no doubt, limited to the larger cities. But this speculation was believed to be due to the bank, and its enemies were found in all sections of the country.

³⁷ American Daily Advertiser, August 29, 1791.

³⁸ Federal Gazette (Philadelphia), August 12, 1791.

³⁹ The Aurora (Philadelphia), August 16, 1791.

With speculation rampant, the demand for money was so great that the discount rates became outrageous. There were only three banks in the country. They were at New York, Philadelphia, and Boston. These banks could not supply anything like all the money demanded. It was believed the directors of these banks had amassed large fortunes. In 1791, the new banks were established in different parts of the country. In New York especially speculation was raging. It was said the bank had become a monopoly, aiding the rich and grinding down the poor.

August 15, Rufus King wrote Hamilton concerning the fall in bank stock that "If they do not fall below these prices [bank stock, 160; 6% bonds, 105], perhaps we may think ourselves fortunately extricated--the Business was going on in a most alarming manner, mechanics deserting their shops, shopkeepers sending their goods to auction, and not a few of our merchants neglecting the regular & profitable commerce of the city."⁴⁰ The price on bank stocks rose instead of falling, and by August 26, it was up to 199.

On August 22, Hamilton wrote to William Seton, his agent in New York, that he hardly expected him to purchase securities within the prescribed limits, "and yet I do not know what effect

⁴⁰ "Hamilton Papers" (MSS.), XII, 1565.

the imprudent speculations in Bank script may produce." "A principal object with me is to keep the Stock from falling too low in case the embarrassments of the dealers should lead to sacrifices" But "If there are any gentlemen who support the funds and others who depress them, I shall be pleased that your purchases may aid the former,--this in great confidence."⁴¹ Hamilton was no doubt willing for this reckless speculation to go on in order to win the support of the classes involved.

This orgy of speculation continued, and in January, 1892, an announcement was put up in Corre's Hotel for a new bank. It was to be known as the Million Bank, and to have a capitalization of 2,000 shares at \$500 each. The books were opened a few days later, and in twelve hours, 21,740 shares had been taken. This was more than ten times the capital of the bank, and a meeting was called to cut down the subscriptions. It was decided that all who had asked for as much as thirty shares should get three; all who had asked for less than thirty and more than nineteen should get two; and all under nineteen should get one. On January 29, the American Daily Advertiser carried the following:

All you, then who covet delicious repose,
Come quickly before the subscriptions all close;
With your cash in your hands to Corre's all flock,
And purchase in deep, very deep, of the stock.

⁴¹ "Hamilton Papers" (MSS.), XII, 1565, August 22, 1791.

This mad speculation was criticised, especially by the opponents of the administration. On the passage of the funding bill, Maclay wrote:

I came downstairs, and all the speculators, both of the Representatives and city, were about the iron rails. Ames and Sedgwick were conspicuous among them. The Secretary and his group of speculators are at last, in a degree triumphant . . . Everything, even to the naming of a committee, is prearranged by Hamilton and his group of speculators. I cannot even find a single member to condole in sincerity with me over the political calamities of my country. Let me deliver myself from the society of such men, for I verily believe the sun never shone on a more abandoned composition of political characters.⁴²

One of Maclay's colleagues, Clymer, had just made eight shillings on the pound on 80,000 pounds, and Constable had made \$35,000 on one contract.⁴³ It is little wonder the administration was brought in for criticism.

People began to fear this wild speculation. "The mad bank schemes of New York produce ill effect. Sober people are justly scared and disgusted to see the wild castle-builders at work. It gives a handle to attack the government."⁴⁴

William Seton, Hamilton's agent in New York, had been buying securities to try to keep up the market which was falling. He

⁴² Maclay, Journal of William Maclay, 1331.

⁴³ Ibid., 1332.

⁴⁴ Ames, Works of Fisher Ames, I, 111, January 3, 1792.

had written Hamilton on April 4, 1792, describing the conditions, and Hamilton replied that he was "pained beyond expression" at the picture given by Seton and others of the situation of his fellow citizens. But who were his friends who were suffering from a fall in the stock market when it was still above par? He authorized Seton to buy \$50,000 more in securities at such times as he thought it would do most to keep the market up. But Hamilton thought it might be wiser to wait for the crisis which he thought was inevitable. "If it is as represented a pretty extensive explosion is to take place" In such an event he could add one hundred thousand dollars and probably more. "To relieve the distressed and support the funds are primary objects." On April 12, he wrote Seton another distressing letter, and on the same date authorized the President of the Bank of New York to advance Seton \$150,000.⁴⁵ The fact that Hamilton as Secretary of the Treasury was taking part in the market manipulations in the matter of private speculation was justification enough for the condemnation which was brought on the administration.

Speculation was greater in bank stocks than any other of the securities, but it was by means confined to them. In one

⁴⁵ "Hamilton Papers" (MSS.), V, April 4 and April 12, 1792.

week sixty-five farms in New York were sold and the money turned into securities.⁴⁶ A canal which was to sell 7,000 shares had subscribed 46,000 in fifteen days.⁴⁷ The Philadelphia and Lancaster Turnpike Company received subscriptions for 2,276 shares in about twelve hours, and thirty dollars was paid down on each share.⁴⁸

Strange irony! Those who bought stock to encourage manufactures, canals, or turnpikes were considered public benefactors, but those who bought bank stocks were speculators sucking the blood from honest toil.

Early in 1792, the son of a Massachusetts banker and two other men borrowed the bank's funds and went to New York to speculate in securities. They sold out to Duer, and the next day stock fell, and Duer was ruined. He was thrown in jail where he remained for five years and was even threatened with lynching.⁴⁹

Duer had been assistant to Hamilton in the Treasury Department, but had resigned in the summer of 1790. As one of a group of New York speculators, he hung around the Treasury with

⁴⁶ American Daily Advertiser, February 20, 1792.

⁴⁷ Independent Gazette, December 31, 1791.

⁴⁸ Gazette of the United States, June 9, 1892.

⁴⁹ W. G. Sumner, A History of Banking in the United States (New York, 1896), I, 33.

his ears pricked to catch the latest secrets. When Hamilton let out anything which they thought could be interpreted as his intention concerning the policy of government, this group took advantage of it to deal in securities to the best advantage. It was at least partly this group whom Hamilton was trying to protect by having Seton buy stocks in New York to try to keep the prices up.

From the New York prison, March 22, Duer had a handbill printed and distributed. He regretted that he could not meet his creditors and tried to justify himself. He declared that he would make settlements with them. But he could not, and feeling ran high. The mayor had to call on citizens to help keep order, and for a short time there was business depression.

According to one writer, "The whole thing was nothing more from the beginning than an expansion of that diabolical system of fraud and villainy, which this arch-imposter--this infamous swindler--this robber and miscreant, had concerted to fleece the innocent and unsuspecting of the honest gains, and hard-earned pittance they happened to possess."⁵⁰

But the "stock-jobbing" did not stop with the fall of Duer. It was carried on to such an extent in Boston in the winter of

⁵⁰ National Gazette, April 6, 1793.

1793 that John Quincy Adams feared the same thing would happen in Boston that had happened in New York the preceding winter. Seven or eight failures of consequence had happened in three days, and he thought many more were inevitable within a week.⁵¹

This wild speculation did not cease until 1796. In July of 1795, Wolcott, Secretary of Treasury, wrote Hamilton that banks were multiplying like mushrooms, and that prices of export trade were hindered by "improper negotiations and unfounded projects." He said it was astonishing how far the capital of the country had been placed in the power of France during the last season by speculation and the excessive use of credit. He thought that unless they had a good crop and speculation could be checked so as to allow an inevitable loss to fall gradually, that there would be a sudden revulsion, the consequences of which would be serious.⁵²

Wolcott's fears were realized in 1796 when a financial crisis came. This was caused in part, no doubt, by a crisis in Europe which caused the Bank of England to suspend specie payment.

But the bank craze did not cease with the crisis in 1796,

⁵¹ Ford, Writings of John Quincy Adams, I, 133.

⁵² Gibbs, Administrations of Washington and Adams, I, 211.

and as late as 1899, John Adams deprecated the fact that the Massachusetts legislature had authorized a number of new banks. "The fluctuations of our circulating medium have committed greater depredations upon property of honest men than all the French piracies."⁵³

No doubt much of the opposition raised concerning speculation was from those groups who did not benefit from it and who believed it to be all evil. The Republicans disliked it from partisan jealousies, and especially because they saw in it the building up of a moneyed class in support of the federalist principles.

Oliver Wolcott drew a fairly definite summary of the whole matter even in January, 1792. He said:⁵⁴

The sudden accumulation of wealth in the hands of individuals has introduced a mania which has led in some instances to an ostentatious display, calculated to excite envy and to recall the unfortunate circumstances under which the evidences of the public debt were alienated, to recollection. This . . . had induced mad speculations on the part of the fortunate, and ebullitions of discontent from those who have been disappointed. The malignity of one part and the pride of the other will probably be cured by a few bankruptcies which may daily be expected, I almost said, desired.

The more the structure and powers of the present government are considered, the more certain it is that

⁵³ Gibbs, Administrations of Washington and Adams, I, 243.

⁵⁴ Ibid., 72.

it is not calculated to bear much of a load; it rests on public approbation. It has however a fair chance of continuing while it is esteemed by the best part of the community. Who can say that this will not be found sufficient for our exigencies for a long period, and until artificial support, if that is necessary from the wickedness of human nature, can be attained.

This speculation was in a great measure due to Hamilton's fiscal policies, and there is no evidence that he opposed it. On the other hand, he did instruct his agent to buy securities secretly to protect those who had bought them from a loss due to a fall in prices. Hamilton was not interested as a speculator himself, but it seems to be a fair conclusion that he was interested in strengthening the new government by building up a class of supporters such as existed in the British government, and by the same means as it used.

The Bank of the United States, another phase of Hamilton's plan based on the British model, was soon to take its place among American institutions.

CHAPTER IX

THE BANK OF THE UNITED STATES

1. Establishment

In February, 1781, Robert Morris was elected by Congress as Superintendent of Finances. He had previously been instrumental in organizing the Pennsylvania Bank, an association whose function was that of furnishing supplies to the army. In the meantime, Hamilton had urged Morris to establish a national bank with a capital of three million dollars. Morris drew up a plan which he submitted to Congress May 26, 1781. Embodied in a bill, the plan provided for a national bank whose notes were to be receivable for import duties and taxes. It was called the Bank of North America. Madison was bitterly opposed to the bank, but the bill was finally passed. The Pennsylvania Bank, realizing that it would be speedily overshadowed by the new corporation, decided to transfer its capital to the new bank.

On December 31, 1781, the Bank of North America was granted a perpetual charter and began business January 7, 1782. It was three years before its notes passed at par. Its perpetual charter was criticized, and the patriotism of its president, Thomas Willing,

was questioned. The directors were not pleased with the charter and applied to Pennsylvania for a state charter. Altogether, it operated under its national charter a little over two years. This constituted the government's entire experience with national banks up to 1791.

In 1790 there were only three banks in the United States: the one mentioned above, one at Boston, and one at New York. All three of these banks operated under state charters.

Hamilton's report on the bank reached the House of Representatives on December 14, 1890. A bill to incorporate a bank was received in the House from the Senate and properly referred to the Committee of the Whole for consideration. On February 1, 1791, the bill was read a third time and was up for passage. The debate on the bill followed.

Jackson of Georgia opposed the bill as calculated to benefit the mercantile interests only. He said that there was no necessity for a new bank; that it was a monopoly of the public money for the benefit of a corporation; and, furthermore, that it was unconstitutional. A motion was made to recommit the bill to consider amendments.¹

¹ Annals of Congress, II, 1891.

The argument had also been made that the bill was being rushed through Congress. Lawrence of New York argued that the bill had not been rushed through and that the different interests of the country were so related that to benefit one was to benefit all. The motion to recommit the bill lost by twenty-three to thirty-four. Of the twenty-three votes for recommitting the bill for the purpose of considering amendments, all but two were from the South of Pennsylvania. Only two of the thirty-four in the opposition were from the South.² The bank was a sectional issue from the beginning. The commercial and industrial interests of the Middle and New England States demanded it, while the agricultural South opposed it.

Hamilton looked upon the bank as of primary importance in the administration of finances, and of very special importance in the support of the public credit. He argued that the most enlightened countries of the world had such banks and named England, France, Italy, Holland, and Germany. Trade and industry in these countries were greatly indebted to these banks for important aid.³

He stated the advantages of the bank as follows:⁴

² Annals of Congress, II, 1894.

³ American State Papers: Finance, I, 67.

⁴ Ibid., I, 67-68.

1. It would augment the productive capital of the country. Gold and silver, he said, were dead stock, but as a basis of paper circulation they acquired life. Banks could circulate far more than the amount of specie they had because the notes would be indefinitely suspended in circulation, and because in loans no actual money payment would be made in most cases. The banks would also have the deposits with which to operate.
2. The bank would be a great benefit to the government in securing financial aid, especially in emergencies. Through the bank larger amounts of capital could be collected at one place and put under one direction.
3. It would facilitate the payment of taxes. This could be done because the bank would make loans for the purpose, and because of the increase in the quantity of circulating medium.

Hamilton admitted that the directors would be calculated to benefit from the bank, but that the support of industry was of the greatest consequence in "correcting a wrong balance of trade." It was wisdom that the states had been prohibited from issuing paper money, and "the wisdom of the Government will be shown in never trusting itself with the use of so seducing and dangerous an expedient."⁵ He also thought that the payment of interest on the public debt in the different states made a bank circulation desirable. Without such a circulating medium, large quantities of gold and silver would always be suspended from

⁵ American State Papers: Finance, I, 71.

circulation to accumulate for these payments. Furthermore, the actual transportation of specie would be necessary. Hamilton was willing to consolidate the Bank of North America into his system, but it was satisfied to work under its state charter.

In his report Hamilton refuted the argument that the profits of the bank ought to go to the government. In order that it should gain the full confidence of the public, he thought it was necessary that it should be under private direction. He said further:⁶

The keen, steady, and as it were, magnetic sense of their own interest as proprietors, in the direction of a bank, pointing invariably to its true pole--the prosperity of the institution--is the only security that can always be relied upon for a careful and prudent administration. It is, therefore, the only basis on which an enlightened, unqualified, and permanent confidence can be expected to be erected and maintained.

There were twenty-four provisions of the bill some of which follow:⁷

1. It would be capitalized at \$10,000,000 with 25,000 shares.
2. One-fourth of the shares would be payable in certificates.
3. The shares would be payable in four equal installments six months apart.

⁶ American State Papers: Finance, I, 74.

⁷ Ibid.

4. The bank would continue to be incorporated until the redemption of that part of the stock which consisted of the public debt.
5. It would hold personal and real estate to the extent of \$15,000,000, including the capitalization.
6. Its total indebtedness should never exceed the capital stock.
7. Trade in anything except bills of exchange, gold and silver bullion, or goods pledged for loans was prohibited.
8. Loans for more than \$50,000 unless authorized by law were forbidden.
9. The stock would be transferable.
10. Twenty-five directors would be chosen annually by the stockholders.
11. It was likewise provided that only citizens of the United States should be directors, and the bank's notes were to be payable in gold and silver on demand. Two million dollars in specie from the government to give a large specie fund, and to enable the bank to begin operation earlier than otherwise.

The opposition had failed to recommit the bill, and Madison opened the attack on it. He first summed up the advantages of banks. They aided merchants in extending their operations on the same amount of capital and in paying their customs duties punctually. They aided governments in meeting their obligations, diminished usury, saved wear on gold and silver, and facilitated remittances from place to place.⁸

But the disadvantages of the proposed institution, Madison thought, far outweighed its advantages. He massed his attack under

⁸ Annals of Congress, II, 1894-1895.

five main heads which may be summed up as follows:⁹

1. The precious metals would be driven out if bank notes were substituted for them. He quoted Adam Smith to prove this point.
2. The public would be exposed to all the evils of possible runs on the bank. Madison thought the most important advantage would be better obtained by several banks properly distributed. He did not think the concentration, as in England, desirable in America.
3. The interest of the public would not be served to the greatest advantage by a central bank.
4. It did not give equal opportunities to all public creditors. Those near the capital would have an advantage in subscribing to the stock of the bank.
5. Madison denied the constitutionality of the bank. He had been of that opinion since the date of the Constitution, he said. He well remembered that a power to grant charters of incorporation had been proposed in the Convention and rejected. The power of the federal government was "a grant of particular powers only, leaving the general mass in other hands. So it had been understood by its friends and its foes, and so it was to be interpreted.

A motion by the Southerners to recommit the bill in order to prolong the time for subscriptions to the bank's stock was defeated by a sectional vote.¹⁰

Ames of Massachusetts said the bank was beneficial to trade, almost essential to revenue, and little short of indispensably necessary in times of public emergency. "But why should we lose

⁹ Annals of Congress, II, 1895-1896.

¹⁰ Ibid., 1902.

time to examine the theory when it is in our power to resort to experience?" It had been tried by the test of the world and pronounced excellent. He said Madison's objections were discoveries and that he had not suspected they existed. He had not heard a whisper against it from the public. He denied Madison's interpretation and stated that in the past two years Congress had scarcely passed a law in which it had not exercised its discretion as to the intention of the Constitution.¹¹ His entire argument was based on the expedience of such an agency. The opponents of the bank continued to argue that its benefits would be sectional and that agriculture would derive little benefit from it.

Smith, representing the commercial interests of South Carolina, favored the bill. He noticed, however, the difference of opinions on the bill and "supposed ideas of personal advantage induced these opposing sentiments."¹²

Stone of Maryland went straight to the point. "We differ in our ideas of Government, and our sense of sacredness of the written compact." In other words, the Federalists were willing to bend the Constitution as a matter of expediency. The

¹¹ Annals of Congress, II, 1903-1904.

¹² Ibid., 1929.

Republicans whose interests seemed to them better served by following strictly the Constitution were inclined to accept the Constitution more literally. But "we are influenced in our habits of thinking by local situations, and, perhaps, the distinct interests of the States we represent." He commented on the geographic sectionalism. The people to the "Eastward began earlier in favor of liberty. They pursued freedom into anarchy--starting at the precipice of confusion, they are now vibrating far the other way." He declared that the consumers paid the taxes, and that all such assessments were bounties to the home manufacturers. "The people to the Eastward are the manufacturers of this country; it was no wonder that they should endeavor to strengthen the bonds of the Government by which they are so peculiarly benefitted."¹³

Stone declared that the most of the Continental debt was in the hands of men east of the Potomac, and that this bill was intended to raise the value of this paper. "Here, then, is the strong impulse of immediate interest in favor of the Bank." He commented on the fact that the bank plan would accept only Continental certificates. The Southern States had only state certificates and were, therefore, "deprived of the advantage that

¹³ Annals of Congress, II, 1930.

might have been given to the only paper they have."¹⁴ He also thought the bank would "swallow up" the state banks, and raise a moneyed interest devoted to the government.

Stone again declared that the bank bill was "one of those shy and subtle movements which marched silently to its object; the vices of it were at first not palpable or obvious; but when the people saw a distinction of banks created--when they viewed with astonishment the train of wealth which followed individuals, whose sudden exaltation surprised even the possessors--they will inquire how all this came about? They will examine into the powers by which these phenomena have arisen, and they will find--they will reprobate the falsehood of the theories of the present day."¹⁵ He declared that in emergencies the bank would be as reluctant to lend to the government as were any other capitalists, and that in prosperity the government could borrow anywhere.

In the matter of interpretation of the Constitution, Gerry criticized Madison's views. Madison rose and said that in 1787, Gerry had said the powers connected with the "necessary and proper" clause were "dark, inexorable, and dangerous," but now "they are clear and luminous." Gerry came to his feet to reply,

¹⁴ Annals of Congress, II, 1930.

¹⁵ Ibid., 1936.

but the impatience of the House forced the vote. The bill carried by thirty-nine to twenty.¹⁶ Only one vote north of Maryland went against the bill, and only five South of Pennsylvania went for it. In the Senate even the Southern States were almost evenly divided, but the other states were unanimous in its support.

The main branch of the bank was located at Philadelphia. Against Hamilton's advice, branches were later established at Boston, New York, Baltimore, Norfolk, Charleston, Savannah, Washington, and New Orleans.

2. Purpose of the Bank

In the debates on the bill, Gerry stated the objects of the bank were to render the fiscal administration successful, to facilitate loans in sudden emergencies, and to aid trade and industry. Besides these objects, Hamilton thought it would be a great aid to the public credit, and would facilitate payment of taxes. But, of course, these generalizations do not tell the whole story. All of Hamilton's measures were inevitably working towards the broad principle of strengthening the national government.

¹⁶ Annals of Congress, II, 1960.

"Brutus III" in the National Gazette¹⁷ said the bank was intended to combine the moneyed interests into concerted action to insure the success of Hamilton's fiscal policy. The bank bill, along with the other measures, was designed to increase the influence of the Treasury and the power of the government. Already members of Congress were stockholders, and even directors, of the bank: Congressmen who were members of the first board of directors were Ames, King, Lawrence, and William Smith. George Cabot, Senator from Massachusetts, was offered the presidency. Lucrative offices had been filled by the members of Congress who created them. The tendency was to raise up motives of private interest instead of public good. The banking system had erected the public creditors "into a body politic."

In the issue of bank notes Hamilton saw a large addition to the circulating medium of the country and a vast expansion of its credit. Facilities for exchange and transaction of business would be provided throughout the country. These were sought by Hamilton for the purpose of developing the resources of the country, which was the main point in his financial policy.¹⁸ At the same time it would be a "source of power and strength to the government," and would create a class, or call to its aid one

¹⁷ March 22, 1792.

¹⁸ Lodge, Works of Hamilton, 101.

already in existence, in support of the government.

John Taylor¹⁹ intimated that the object was private gain to certain groups. Money and credit were the only means of acquiring bank stock. The poor had neither, and the rich possessed both. "The exclusion of the one, and the preference for the other, though not expressed, were evidently designed, because it unavoidably resulted from the nature of the contrivance." "An annuity to a great amount, is suddenly conjured up by law, which is received exclusively by the rich, that is the aristocracy."²⁰ This would be paid out of labor, and labor in all countries falls on the poor.

Another writer characterized those responsible for the bank as "unanimous and diligent in intrigue, variable in principles, constant in flattery, talkers for liberty, but slaves to power."²¹ "An American Farmer" in the same paper said the bank was simply a scheme by which the wealth of the country was to be thrown into the hands of the few. It would make the rich richer, and the poor poorer. Instead of supporting the credit of the government, the government was supporting the credit of the bank.

¹⁹ Taylor, An Inquiry into the Principles and Tendency of Certain Public Measures, 7.

²⁰ Ibid., 15.

²¹ "Caius," in The National Gazette, February 6, 1792.

There is no doubt that the bank was organized for both economic and political purposes. It would be of use to the government, and it certainly had its practical value to commerce and industry. The political motives are more dubious than the results, but the opposition evidently believed it was designed to build strength into the federal government.

3. Constitutionality of the Bank

Madison laid down the following rules for interpretation of the Constitution:²²

1. That an interpretation which destroyed the very characteristics of the government could not be just.
2. That where the meaning was clear the consequences were to be admitted.
3. That in controversial cases, the meaning of the parties to the instrument was the proper guide.
4. That in admitting or rejecting constructions, not only the degree of incidentality to the expressed authority should be regarded, but also the degree of its importance.

According to Madison, the only clauses under which power to incorporate a bank could be claimed were those granting power to levy and collect taxes, borrow money on the credit of the United States, and to pass all laws necessary and proper to carry into effect the powers previously named. The establishment of a bank

²² Annals of Congress, II, 1896.

was plainly not admissible under either of the first two clauses. To so interpret them would give Congress unlimited powers, render the enumerated powers nugatory, and supersede the powers reserved to the states.

Madison further declared that the "necessary and proper" clause did not apply. It did not give Congress unlimited discretion. It was "limited to means necessary to the end, and incidental to the nature of the specified powers." It was merely declaratory of what would have resulted by unavoidable implication, as the appropriate, and . . . technical means of executing those powers. In this sense it has been explained by the friends of the Constitution, and ratified by the State Conventions."²³ Such a construction, Madison declared, would destroy the essential characteristics of the government as one of limited powers. He concluded the bill was condemned by the following:²⁴

1. The silence of the Constitution.
2. The rule of interpretation.
3. Its tendency to destroy the main characteristics of the Constitution.
4. The exposition of friends of the Constitution at the time of its adoption.
5. The apparent intention of the persons who ratified the Constitution.
6. Explanatory amendments proposed by Congress to the Constitution.

²³ Annals of Congress, II, 1898.

²⁴ Ibid., 1902.

In answering Madison, Ames declared that Congress might do anything which was necessary except what was expressly prohibited. He declared "exceptions of what it may not do are shorter and safer."²⁵ Massachusetts did not accept any of the first ten amendments to the Constitution, and it is evident that Ames did not accept the tenth one. The bank's friends based their arguments primarily on experience and need, and expedience was their justification. Sedgwick and Lawrence argued that the bank was not prohibited by the Constitution and was, therefore, not unconstitutional.

Stone declared that when the doctrine of implication first raised its head in the House, he had started from it as if it were a serpent which was to sting and poison the Constitution. The fears, the opinions, the jealousies of both individuals and states were justified. The country was united in its sentiment against implied powers. He said "the admission of this doctrine destroys the principle of our Government at a blow; it at once breaks down every barrier which the Federal Constitution had raised against unlimited legislation." Necessity was the most plausible pretext for breaking the spirit of the social compact,

²⁵ Annals of Congress, II, 1905-1906.

but that had been anticipated and provided for by the amending process.²⁶

The doctrine of expedience, propounded by the Federalists, carried to its ultimate conclusion, would have virtually changed the Constitution into the type of the British Constitution. Needless to say, that was largely done under John Marshall, and Stone was correct in saying that there was a difference in lodging certain general powers in a government, and in permitting them by subtle construction. In one case they were given up by consent. In the other they were taken by clever interpretation, irrespective of public will.

A common belief that Madison and others who opposed the bank bill did not admit the doctrine of implied powers in any degree is false. It was a matter of how far such interpretation should extend. In the preceding two years, nearly every law which Congress had passed required some degree of interpretation of the Constitution on the part of that body. The Federalists seemed willing to admit the constitutionality of any power which did not violate the expressed prohibitions in the Constitution. The Republicans, admitting the necessity of interpretation, based their

²⁶ Annals of Congress, II, 1931.

arguments on the degree of incidentality of implied power to the expressed power from which it was deduced. Under such circumstances, it was inevitable that expediency should become the most effective argument for establishing any power not expressly prohibited by the Constitution.

It was argued that the bank was an exclusive private monopoly and that the right to establish such an institution was inconsistent with the nature of the government and a violation of the sacred rights of the people who composed it. It was argued that the bank was unconstitutional because:²⁷

1. Members of Congress might levy taxes on the community and then share in its profits.
2. Members of Congress might vote to establish the bank and then profit from its operation.
3. Members of Congress debauched by banking interests ceased to be citizens.
4. Members with banking interests were under the influence of foreigners who owned a great part of the stock.
5. As stockholders, members lost their allegiance to their constituencies.
6. Impeachment of stockholders would be impossible as other member holders would not impeach them.

It was contended that it would be better to let the bank have its own representatives in Congress. And concerning foreigners, it was said that "The English who could not conquer us, may buy us."

The fight in the cabinet is well known. In response to

²⁷ The National Gazette, February 6, 1792.

Washington's request Jefferson and Randolph presented their arguments against the bank. Washington sent both their arguments to Hamilton that he might make his answer in the form of a rebuttal. Hamilton's reply was so complete that even Marshall in the case of *McCulloch Vs. Maryland* found poor gleanings, and was able only to quote the exact words of Hamilton. He declared,

. . . that every power vested in government is in its nature sovereign, and includes by force of the term, a right to employ all of the means requisite and fairly applicable to the attainment of the ends of such power, and which are not precluded by restrictions and exceptions specified in the Constitution, or not immoral, or not contrary to the essential ends of political society.²⁸

Hamilton proceeded to prove the sovereignty of the states and of the United States in their respective spheres. The power which could create the supreme law of the land must be supreme or sovereign. Hence, the power to incorporate was incidental to the sovereign power in the objects intrusted to the federal government.

Washington kept the bill unsigned until the very last minute. In the meantime, Madison had prepared the draft for the veto message. He might have used it in 1816 himself, but did not. The proponents of the bill claimed the prescribed time had passed and that the bill was law without the President's signature.

²⁸ "Hamilton Papers" (MSS.), XI, 1425.

Only the signing of the bill by the President prevented a controversy over this matter.

In establishing the doctrine of "implied powers" those who wished to make the central government strong had acquired their most formidable weapon. Of course, the opposition realized that this doctrine was capable of conferring almost unlimited power on the central government. Here Hamilton won the means to secure the strength, order, and force which he wished to bring to the new government. Under this interpretation, the Constitution has become flexible, depending upon the dominant social class at any particular time for its construction. Under it the central government has become a tower of strength.

4. Criticisms

Criticisms against the bank were numerous and varied. Jefferson declared that Hamilton had built up a group in Congress on whom he could depend to carry through anything he wished. First, he had used the funding scheme, then the assumption of the state debts, and finally the bank to make it permanent. "Here was the real ground for the opposition which was made to the administration." He said the purposes of the opposition were to preserve the Congress pure and independent of the executive, to restrain

the administration to republican principles, and to prevent the Constitution from being construed into a monarchy and "warped in practice into all the principles and pollutions of their favorite English model."²⁹ He also declared that by the use of Congressmen as directors of the bank, and the vote of the stockholders in Congress, that Hamilton was always able to carry a majority.

Although Senator Maclay voted for the bank, he confided to his diary apologetically that he was merely trying to salvage something for the people. He had objections to the bank. It was a machine for promoting the interest of unproductive men. It was unnecessary to have the bank as the business could be done in banks already established. He thought the whole profits of the bank should go to the public. Furthermore, the United States must advance all of its one-fifth in specie while individuals could advance three-fourths in certificates.³⁰

John Taylor declared that the bank was the master key to the system which governed the United States. It could unlock a depository of secrets, but the public was confined to what it could extract from the laws and their effects. But that "secrets enacted by law, are secret laws. They operate upon the ignorant, and punish the innocent; and are as inevitable, as the stroke of

²⁹ Ford, Writings of Thomas Jefferson, I, 178.

³⁰ Maclay, Journal of William Maclay, I, 370.

death." Again he declared that "America has defended her property against open violence, to be cheated out of it by private fraud." He believed the bank was an instrument for bringing undue influence upon Congress and that it would come to the point that this influence would be considered as an indispensable attribute of good government. Ancient and modern tyranny arrived at the same ends by different methods. The former used open violence while the latter resorted to "the wily tricks of private influence."³¹

"Brutus III" in the National Gazette³² declared that since the doctrine of "implied powers" was established by passing the bank bill, all that remained was to see this incorporating power extended to manufacturers and merchants, along with the other assumed powers of bestowing bounties and exemptions, "and the desires of the most bitter enemies to the little remaining importance of state government, will be completely gratified" They would then see a consolidated and energetic government supported by public creditors, speculators, members of corporations, and others receiving bounties and exemptions, rising upon the ruins of the free republics. Instead of constitutional princi-

³¹ Taylor, An Inquiry into the Principles and Tendency of Certain Public Measures, 7.

³² March 22, 1792.

ples, they would see the people ruled by a complicated system of partisans who enjoyed the bounties of the government. Thus an alliance would be formed between the government and the wealthy creditors, cemented by reciprocal advantages, while the strength of the one, and the wealth of the other, would both be derived by oppressing the weak and the poor. These were not visionary fears, but were justified by the experience of other countries, particularly England from which all these schemes were imported.

The country undoubtedly needed some banking institutions to bring the capital possessed into full activity. It was a need of the people, not of the government. Banks were already being formed to meet this need. The necessity that the government should provide such an institution was debatable. Fundamentally it was like the Bank of England in that originally it was a syndicate of the holders of the public debt who were incorporated and granted a monopoly on issuing notes, as far as that control was vested in the federal government.

There was no need for allowing subscriptions in the public debt as this was already provided for by the funding process. "This was only a measure for carrying out another notion which was stigmatized as English with more reason than in other cases;

namely, that of interweaving the interests of wealthy men with those of the government." The United States never realized any gain from this device. The expectations were unfounded and illusory, and the opposition were justified in saying that if it had been real, it would have been derogatory to the government.³³

This bank planted the seeds of wildcat banking with which the United States was cursed until the Civil War, and also the vices, fallacies, and political disturbances of Jackson's bank war may be traced back to it in no small degree. The opposition party paid Hamilton the homage in 1816 of imitating his bank very closely. They followed the example set by subscribing stock in the bank and giving the bank's notes for the subscription. Private individuals for the next fifty years did the same thing with ruinous effect. They thought by combining, a number of them could make a bank and gain the same advantages which the impecunious government had won.³⁴

The friends of the bank, and other of Hamilton's measures, knew that they were intended to give strength to the government. Fisher Ames wrote Hamilton that the sweep of the measures of the

³³ Sumner, Alexander Hamilton, 164.

³⁴ Ibid., 164-165.

government had astonished the multitude and stung envious hearts of the state leaders. He went on to say that all the influence of the moneyed men ought to be wrapped up in the Union and in one bank.³⁵

Oliver Wolcott, who was comptroller for the Treasury and successor to Hamilton as secretary, knew the bank was intended for the wealthy. He was offered the presidency but declined it. He wrote his father that he was "sensible of the influence of wealth in the affairs of this world," and that he did not care "to elevate myself to the property of rich men," since he did not have property to support and defend himself.³⁶

In 1804 "Four Letters to the People on the Undue Influence of Bank Directors in the Political Affairs of the State of Maryland" was published. The author contended that the general tendency of banks was subversive to the principles of free government and repugnant to civil liberty. He declared that the stock of the United States Bank was principally owned by the British. He contended that the bank at Baltimore had generally been managed by foreigners and always by those unfriendly to representative government. Certain persons had been proscribed by

³⁵ "Hamilton Papers" (MSS.), Vol. II, July 31, 1791.

³⁶ Gibbs, Administrations of Washington and Adams, I, 73.

that institution for no other reason than that they were Republicans. The author claimed that they borrowed money at six per cent per annum and lent it for three per cent per month.³⁷

The same writer said the Mechanics Bank in New York was formed by the unnatural union of Aaron Burr, Oliver Wolcott, and Alexander Hamilton. It was the first link in Hamilton's chain which was to have "encircled the Union," and driven the pusillanimous statesman from the chair, and strip him of a government. In 1791, some ten banks were set up by Republicans to restrain the influence of the Bank of the United States, but when the stock was sold, it was purchased by British agents.³⁸

The objections to the bank have been summarized as follows:³⁹

1. It would strengthen and perpetuate the government.
2. The moneyed interests would be concentrated and brought into intimate connection with the national government.
3. It was favorable to, and would win the support of, the capitalists and mercantile interests.
4. It was a politico-financial conspiracy.
5. The landowners and farmers would be made helpless victims of public creditors and fund holders.
6. Agriculture and production would be sacrificed while trade and commerce were aided.

³⁷ Letter I, in Political Pamphlets (Library of Congress), 103, No. 6.

³⁸ Letter III, in Ibid.

³⁹ John T. Morse, The Life of Alexander Hamilton (Boston, 1876), 339-340.

7. A new and powerful organization of the North and East would reduce the South to insignificance and helplessness.
8. It was a reproduction of the British system.
9. Hamilton would work a fatal assimilation of the American government to that of Great Britain.
10. It was unconstitutional.

This first great constitutional debate also brought to light the social and sectional antagonisms which have played such a great part in every phase of American development. The Northern and Middle States contained the cities with the commercial and industrial classes whose capital was chiefly ready money. The capital of the rural South was already overinvested in lands and slaves. The latter were borrowing; the former, lending sections. The spirit of union was inherent in the first because of its urban life, its commercial pursuits, and its frequent business contacts. The rural surroundings and agricultural occupations just as naturally bred the spirit of individualism and self-reliance in the South. This sectional division was found on all of Hamilton's measures. The Federalists were afraid the central government would not develop enough power to serve the best interests of the country. On the other hand, the Republicans, mostly Southerners, were afraid the federal government would develop too much power and would become inimical to their interests.

In brief, the opposition to the bill was on sectional, social, and constitutional ground. Sectionalism included the antagonism between the city and the country, and between the North and the South. The social antagonism grew out of the belief that the bank would benefit only the rich and would, therefore, become an instrument of inequality. The question of constitutionality was by far the most important. Madison was the leader and main strength of the opposition. He showed that the Constitutional Convention had refused to give Congress the power to grant charters of incorporation because it would include the power to establish a bank. Inasmuch as this question had arisen in regard to the Bank of North America under the Confederation, the omission to grant such a power in the new Constitution was undoubtedly intentional. The advocates of the bank were hard put to find a clause under which its establishment could be implied. Hamilton based his arguments on the necessary powers of a sovereign state. This, of course, was exactly what the opposition feared, and the question was not finally settled until the Civil War.

Hamilton's bank bill was important as a financial expedient and as a pillar of strength in the government, one whose fundamental weaknesses were financial. Another closely related measure

deserves attention. The Excise Bill, originated to raise money for the funding process, was the real test of the federal government, and the proof of its supremacy.

CHAPTER X

THE EXCISE BILL

1. The Excise Bill in Congress

On December 13, 1790, Hamilton reported to Congress on the public credit and suggested an excise on distilled spirits. The increase in obligations of the government because of assumption of the state debts was \$21,500,000, and it was intended that this should be met by the excise taxes. The annual increase in cost to the government because of assumption would be some \$826,625, and Hamilton believed this could be raised by the excise with a rate varying up to thirty cents on the gallon.¹ According to the report there were two principles, one of which would have to be adopted. The first method would make the collection of the revenue depend upon the vigilance of the officers, while the second would depend upon the integrity of the distillers. He adopted the first as the basis of his report.

Hamilton stated that there had been objections to the excise because of the unlimited powers of excise officers in entering and searching places, and he suggested that the collectors be

¹ American State Papers: Finance, I, 64.

limited to visiting and searching only places that had been marked by the dealers. He also denied that it would be more expensive to collect than a land tax and that it did not finally fall on land, but on every species of capital and industry. He thought as an indirect tax it would be less odious to "the sensibility of the whole community."²

Hamilton estimated the probable income from this source as follows:³

Duties on foreign imports	\$ 320,000
Distilled from foreign materials . . .	385,000
Distilled from domestic materials . . .	<u>270,000</u>
	\$ 975,000
Drawbacks and collections (10%). . . .	<u>97,500</u>
	\$ 877,500

In January, 1791, the bill was brought up in the Senate and was started on its way to passage. Hamilton sat with the committee during the time the bill was in its hands. "Nothing is done without him." Hamilton's followers were so anxious to pass the bill, "that even John Adams, who used to show as much joy on an adjournment from Friday to Monday as ever a schoolboy did at the sweet sound of playtime, fixed the House to meet tomorrow." Maclay had

² American State Papers: Finance, I, 65-66.

³ Ibid., 67.

opposed the bill because he believed that, "Wealth is not its only object."⁴

On February 9, Maclay attended the Senate and declared he was never more vexed, "when all the business is done in dark cabals, on the principle of interested management." The bill had passed but he declared the administration foresaw trouble and was preparing to meet it with a host of revenue officers. The bill gave the President the power to appoint as many collectors as he saw fit. Maclay believed that, "War and bloodshed are the most likely consequences of all this." He further recorded that Congress might as well go home, as Hamilton was all-powerful and failed in nothing he attempted. Hamilton "told them that they approached a precipice, that the legislature of Pennsylvania had been forced to wink at the violations of her excise law in the Western parts of her state . . . [and that] nothing short of permanent military force could effect it."⁵

Maclay was from Pittsburg and understood the conditions and temper of the Western sections. But it is clear that Hamilton also understood them. It was beyond any doubt one of his primary

⁴ Maclay, Journal of William Maclay, 365.

⁵ Ibid., 387.

purposes to make the weight of the government felt, especially in the West, by this bill. This Western country from Pennsylvania to North Carolina was individualistic, and boldly antagonistic to the administration of the Federalists.

One section of the bill was recommitted in the Senate. Maclay thought the purpose was to give Hamilton a "chance to add new schemes." One of the provisions now advocated would have divided the states into revenue districts irrespective of state boundaries. Maclay believed the annihilation of state governments was the purpose of this change. He believed a Senator ought to be the guardian of the state, and the effort to destroy its individuality was treason. An Indian war was going on, and there was trouble with Algiers over eleven captives. He believed the first was created in order to raise an army, and the latter used as the pretext for fitting out a navy. "With these two engines, and the collateral aid derived from a host of revenue officers, farewell freedom in America."⁶

On January 5, the bill came up in the House. Jackson restated his opposition to the funding system and moved to strike out the most essential part of the bill. He declared, "this mode of taxation was odious, unequal, unpopular, and oppressive, more

⁶ Maclay, Journal of William Maclay, 389-390.

particularly to the Southern States . . . as the citizens of those States have no alternative to adopt by which they can diminish the weight of the tax; no breweries or orchards to furnish a substitute for spirituous liquors; hence they become a necessary article."⁷

Parker of Virginia opposed the bill as hostile to liberty and contrary to general sentiment. It was not only partial and unequal, but particularly objectionable on account of the method of collecting the tax. "It will convulse the Government; it will loose a swarm of harpies, who, under the denomination of revenue officers, will range through the country, prying into every man's house and affairs, and like a Macedonian phalanx bear down all before them."⁸ He did not believe it would increase the revenue.

Stone objected to the excise as a method of raising revenue. He was sure other means could be found. Jackson's motion was lost by a large majority. Madison half-heartedly defended the bill as necessary to raise revenue. Jackson offered an amendment to prevent inspectors or any officers under them from interfering either directly or indirectly in elections. Sedgwick

⁷ Benton, Abridgement of the Debates of Congress, I, 262.

⁸ Ibid., 263.

argued that this would deprive the government of the services of the best men in the country. The amendment was lost by twenty-one to thirty-seven, and the bill was passed by a vote of thirty-five to twenty-one.⁹

The excise bill was not nearly so hard-fought as the funding measure. The vote, however, was sectional. Madison supported the bill and took three other Virginia votes with him. Smith of South Carolina, and Carroll of Maryland voted for it. In all, there were but six Southern votes for the bill. Only three from New York and two from Pennsylvania were cast against it in all the section north of Maryland.¹⁰

2. Provisions and Workings of the Bill

On November 1, 1791, Washington submitted to both Houses of Congress the plans drawn by Hamilton for the collection of the excise duties. Each state was divided into surveys, ranging from one in the smaller states to seven in Virginia. Each state had a supervisor, who in many instances was also an inspector for one district. There was an inspector for each district. Below

⁹ Benton, Abridgement of the Debates of Congress, I, 272.

¹⁰ Ibid.

the inspectors were collectors of revenue. The number of collectors was left to the discretion of the supervisor.¹¹ According to Gallatin, the internal duties were collected by sixteen supervisors, twenty-two inspectors, two hundred and thirty-six collectors, and sixty-three auxiliary officers, making a total of three hundred and thirty-seven.¹²

Supervisors were paid salaries varying from \$400 to \$1,000, plus commissions varying from one-half of one per cent to two per cent. Inspectors also received stated salaries plus commissions on the net product of duties collected within each jurisdiction. Compensation for collectors was two per cent on products of duties distilled from foreign materials, and four per cent on products of duties from domestic materials.¹³ Some of the supervisors were outstanding men in their states. The commissions, however, did not produce much in the way of salaries, and on November 22, 1792, Washington sent a communication to Congress whereby collectors were allowed bonuses varying from forty to sixty dollars. "This is to compensate collectors where revenue is not yet productive." Auxiliary officers were to receive twenty-five

¹¹ American State Papers: Finance, I, 110-111.

¹² Henry Adams, The Writings of Albert Gallatin (Philadelphia, 1879), III, 88.

¹³ American State Papers: Finance, I, 110-111.

dollar bonuses. The same terms applied to customs collectors at the ports.¹⁴ Commissions collected were in general exceedingly moderate. For supervisors they ranged from thirty dollars annually in New Hampshire to eight hundred in Pennsylvania and Virginia. For inspectors and collectors they were much less. The estimated total cost of domestic collection was \$69,980, which was a little above two hundred dollars average for each official.¹⁵

The revenues collected from this source were disappointing. Hamilton had expected over \$800,000 annually, but Gallatin estimated the net receipts for the three years from January, 1792, to January, 1795, to be only \$612,241.71.¹⁶ For the year ending July 1, 1795, Gallatin calculated the net receipts from distillations of foreign and domestic materials, at \$199,000. The cost of collection he thought had been twenty-six per cent.¹⁷ In showing that it was advisable to repeal the duties on spirits from native products, Gallatin estimated the cost of collection

¹⁴ American State Papers: Finance, I, 171-172.

¹⁵ Report of Tench Cox, Commissioner of Revenue, July 5, 1792: Ibid., 173-175.

¹⁶ Adams, The Writings of Albert Gallatin, III, 86.

¹⁷ Ibid., 177.

at thirty-four per cent, while the cost of collection for duties on spirits distilled from imported products was only fourteen and one-half per cent. In the former case the stills were mostly located in the country and were not easily accessible, while in the latter case they were mostly located in the cities, and the duties could be collected much cheaper.¹⁸

Excise duties were also placed on licenses to retailers, sales at auction, refined sugar, snuff, and carriages. Gallatin estimated that for the year ending July 1, 1795, the total net revenue from the excise was \$226,133.¹⁹ As a financial expedient the excise may be conceded to have failed.

3. Criticisms of the Excise Law

It is unnecessary to go into the story of the insurrection in Western Pennsylvania as good general accounts of this can be found in many places.²⁰

¹⁸ Adams, The Writings of Albert Gallatin, III, 89.

¹⁹ Ibid., 178.

²⁰ An unbiased account of the insurrection may be found in Richard Hildreth, The History of the United States of America (New York, 1863). Sympathetic, if not apologetic, accounts may be found in H. M. Brackenridge, History of the Whiskey Insurrection, 1794 (Pittsburg, 1859); and William Findley, History of the Insurrection in the Four Western Counties of Pennsylvania (Philadelphia, 1796). All of these are in the Congressional Library.

It should be remembered, however, that elsewhere the opposition to the excise was mostly a matter of Republican principles. The opposition, of course, would make the most out of an unpopular measure which the administration was sponsoring. The tax to them was of no very great importance. But beyond the mountains the tax was really oppressive and unjust. Here, too, the spirit of liberty and individualism ran high. Under such conditions it is easy to understand why such difficulties might arise.

This form of taxation was not a novelty to the states as it had been used in Massachusetts, Pennsylvania, and Connecticut. But somehow the popular mind did not hold that the same rules of taxation were applicable to both state and national governments. The legal right of the central government to levy such a tax was clear, but somehow it seemed to come from an external government.

The excise had its enemies before it ever made its entrance into the halls of Congress. In England the term "exciseman" was one of utmost reproach. In 1787, Richard Henry Lee thought that those who administered the government would probably look with favor on "every occasion to multiply laws, and officers to execute them, considering these as so many necessary props for its own support." He thought internal taxes would be put into operation, and assessors and collectors spread throughout the country. When

he considered the American Revolution, he could hardly believe people were serious who were proposing an internal tax.²¹

In 1789, Fisher Ames declared that, "An excise is a topic on which my zeal is beginning to kindle." He saw a necessity for drawing some revenue from that source, although the South thought it odious, unpopular, and unequal. "They are afraid for their Whiskey . . . But I dread the consequences of leaving it untouched, and at the mercy of the state governments, who can, by that measure, defeat the operation of our protecting duties, and excise and manufactures at their markets." Other ill effects would come from a failure to enact a law taking advantage of this resource.²²

On January 14, 1791, a series of resolutions drawn by Gallatin was introduced into the legislature of Pennsylvania. They declared the excise bill to be "subversive to the peace, liberty, and rights of the citizens," and "exhibited the singular spectacle of a nation resolutely opposing the oppression of others to enslave itself." These resolutions were carried in the House of Representatives by a vote of forty to sixteen.²³ Gallatin gave the

²¹ "The Federal Farmer," Letter III, in Wolcott Pamphlets, III, October 10, 1787.

²² To George R. Minot (May 14, 1789), in Ames, Works of Fisher Ames, I, 37.

²³ Adams, Life of Albert Gallatin, 88.

following additional reasons for the opposition to the excise in Western Pennsylvania:

1. The duty was unequal.
2. The distance from permanent markets made it a hardship on the western farmer.
3. The difficulty of communication made the disposal of their raw products impossible.
4. The additional cost of labor for distillation was an unjust burden.
5. There was a scarcity of cash. The payment of a tax in this case was ruinous. Most of the exchange in this section was done by barter, and there was not enough money in circulation to pay the revenue.

About the same time, John Lamb, one of Hamilton's friends in New York, wrote him that from his own observations and information he could obtain, that merchants in New York were disgusted with the duties which Congress meant to impose on liquors, and that they intended to smuggle if possible.²⁴

The Gazette of the United States carried articles both for and against the excise bill. One writer said the bill when passed would appear without unusual attention and that it would be a puzzle to find out whether Pennsylvania liked it or not. He said it was guarded against abuses, and that its critics opposed it only on general principles. They opposed the power it conferred on the government.²⁵

²⁴ "Hamilton Papers" (MSS.), X, January 7, 1791.

²⁵ February 9, 1791.

But the above was not to be the case. The legislatures of Virginia, North Carolina, Maryland, and Pennsylvania passed resolutions against it. The distillers were bold. A meeting of all distillers was called for July 27, 1791, at Brownsville (Redstone Old Fort), Pennsylvania, and from it went calls for conventions to meet at Washington, Pennsylvania, on August 24, and at Pittsburgh on September 7. These meetings denounced the law and called on all the people to treat any man taking office under it with contempt, and to withhold all support in collecting the duties. They complained bitterly about the salaries of the federal officers, the rate of interest on the national debt, the funding, the bank, and the tax on whiskey.²⁶

In February, 1792, Brackenridge of Pittsburgh gave the reasons for the opposition in the west as follows:²⁷

1. It was necessary to convert the grain into whiskey because of the expense of transporting it to market. The mouth of the Mississippi River was closed and their outlet there blocked. He thought the excise should at least be suspended until the Mississippi was opened.
2. The imports to that section were very expensive. It cost 'sixpence per pound,' and there should be some reduction as a matter of equalization.

²⁶ American Daily Advertiser, September 30, 1791.

²⁷ National Gazette, February 9, 1792.

3. Agriculture in that section had many hardships, and whiskey was their only exchangeable product. The farmer supplied himself by exchanging whiskey for what he needed. Under this system of barter it was impossible for the tax to be passed on to the consumer. The distiller was to be forced to pay money in the first instance when he received none for his products.
4. This part of the country had not become prosperous since the war. Disputes and litigations over land titles had helped to keep the country from prospering. In general, he concluded, that, 'this is no country from which to raise a revenue.'

On March 6, 1792, Hamilton complied with a request from the House of Representatives to report on the difficulties of executing the excise law. He stated that objections had arisen embarrassing collections and inspiring a desire for its repeal. Some of the objections were:²⁸

1. It had been said the excise was intended to contravene the principles of liberty. Hamilton answered this by saying that the stigma of the name had not given it a fair chance, and that the objectionable features of unlimited search in other excise measures were not in this one. It was also said that the marks on the houses for inspection were dishonorable badges. Hamilton argued that people did this to advertise their goods, so that callers might recognize them.
2. It was objected to as an injury to morals. The oaths required to be taken led to perjuries. Hamilton merely replied that this was common in everything.

²⁸ American State Papers: Finance, I, 152.

3. It was also said that the penalties were severe and oppressive. Hamilton denied this. The penalties ranged from fines of fifty to five hundred dollars, and forfeiture of goods involved. In some instances, the vessel, wagon, or other conveyance was also forfeited. He said it was the severity of the perjury laws which they dreaded.
4. In reply to the objection that the excise was an injury to industry, Hamilton replied that such was not the case when a duty was also placed on imports. Objections were also made to the surety bond, method of accounting, and many other things.

"Sidney" in the National Gazette²⁹ did not like the tax because it taxed the people blindfolded. They did not understand it. Besides the extent to which it could be carried was dangerous. It must be a tax on necessities instead of luxuries; otherwise, it would not raise the required revenue. But the real object of the tax, he said, was political. An excise imposed by a state government was regarded as any other tax, but by the central government it was looked upon as a burden imposed by an external power. He declared that unlimited search had been necessary to enforcement in all countries where the excise had prevailed, and that these gave rise to crime, punishment, fines, seizures, and confiscation, and that these were injurious to the liberty and happiness of the people. Another writer declared the

²⁹ April 23, 1792.

fate of the excise law would determine whether the powers of the government of the United States were held by the aristocrats or the people.

Whiskey was especially a product of the South and the West. In New England rum and gin were substitutes for whiskey. One writer sarcastically remarked that if the Westerners were not an ungrateful anti-federal lot, that they would thank those who passed the law for sparing them the trouble of distilling for themselves. All they now had to do was to drag their grain down to the seacoast, a trifling distance of six hundred miles, and there to barter it for the "ambrosial juices of the New England stills." But the distillers should hold their tongues "lest an army of militia, collected from the gin and rum distillers, should be sent out into the back country to make you sing a different tune over your whiskey."³⁰

After the insurrection in Western Pennsylvania, Fisher Ames wrote that Virginia acted better than could have been expected, and that the militia returned to all the states full of federalism and would diffuse it among their connections. The rebellion had touched a great section of the country, and "had all the disaffected combined and acted together, the issue would have been

³⁰ The Gazette of the United States, May 19, 1792.

long protracted, and doubtful at last." He thought all the insurgents ought to be defeated for Congress, and a little "plain dealing" with them would change things, even in Virginia. "Ought not those considerations, which concern political life and death, to weigh down all others in New England?"³¹ Ames had a great weakness for wishing to give the South good government like that which New England had.

"A Citizen" writing in the Pennsylvania Gazette declared that anti-federalism was at the bottom of the whole trouble. It was all aimed at the government, and the excise was only the means to arouse the public. To prove this, it was only necessary to look and see who the leaders were.³²

A committee at Uniontown, September 10, 1794, drew up a declaration for Fayette county in which they advised the people to submit to the Commission appointed by the federal government and to take the required oath. The committee declared the excise to be obnoxious and oppressive. "We think it a part of a more extensive system, and we look upon it as a forerunner of a pre-meditated extension to numerous other articles." But they denied

³¹ To Thomas Dwight (December 12, 1794), in Ames, Works of Fisher Ames, I, 155.

³² August 27, 1794.

the right of rebellion.³³ In his message to Congress on November 19, 1894, Washington lamented the recent uprising, but declared that, "there are not wanting real and substantial consolations for the misfortune."³⁴

Ames declared that the troubles were fomented by a discontented faction in the House of Representatives. He said the Speaker of the House (Muhlenburg of Pennsylvania) was a member of a democratic club, and Madison and Parker were honorary members. "Oh shame! Where is thy sting!"³⁵ It is pretty clear that the Republicans, both in and out of Congress, were in hearty accord with the opposition to the excise. It was no doubt in part an effort to make the best possible political use of an unpopular measure. It was also believed that such a financial system was patterned too much after the corrupt British model, and that it was antagonistic to individual liberty.

That the whole question was to Jefferson one of determining the nature of the government is clear. He thought the excise law was an "infernal one," and that it was an error to admit it to be

³³ Adams, Writings of Albert Gallatin, I, 6.

³⁴ J. D. Richardson, Messages and Papers of Presidents, 1789-1897 (Government Printing Office, Washington, D. C., 1876), I, 166.

³⁵ To Thomas Dwight, November 29, 1894, in Ames, Works of Fisher Ames, I, 153.

constitutional. That the President in his message to Congress had denounced the democratic societies was "one of the extraordinary acts of boldness of which we have seen so many from the faction of the monocrats. It is wonderful, indeed, that the President should have permitted himself to be the organ of such an attack on the freedom of discussion, the freedom of writing, printing, & publishing."³⁶

The followers of Hamilton thought the democratic societies were seditious, and the hotbeds of the "mobocrats." Jefferson, however, thought it was a "matter of rare curiosity . . . to see what line their ingenuity would draw between democratical societies, whose avowed object is the nourishment of the republican principles of the Constitution, and the society of the Cincinnatti," an organization carving out for itself hereditary distinctions, accumulating a capital in its treasury, and hovering eternally over the Constitution. He thought their sight must have been "perfectly dazzled by glittering crowns and coronets" not to see the inconsistency of wishing to suppress the friends of "general freedom" while those who wished to confine freedom

³⁶ Ford, Writings of Thomas Jefferson, VI, 516.

to the few were permitted to go on with their practices. He said it was an attack on "natural and constitutional rights in all its nakedness."³⁷

In the same strain, Jefferson wrote to Giles that this attack on liberty had come a full century earlier than he had expected. "The tide against our Constitution is unquestionably strong, but it will turn. Everything tells me so, and every day verifies the prediction. Hold on then like a good and faithful seaman till our brother sailors can rouse from their intoxication and right the vessel. Make friends with the trans-Alleganians. They are gone if you do not. Do not let false pride make a tea-act out of your excise law."³⁸

Randolph, the Secretary of State, called on Fauchet, the French Minister, for a loan purportedly for the use of Republicans. One of Fauchet's dispatches was intercepted and came into the hands of Washington. Randolph was asked to explain, but realizing that his explanation was unsatisfactory, he resigned. Randolph made a hurried call on Fauchet as he was leaving the country. Fauchet tried to explain the incident. He expressed Randolph's

³⁷ To Madison, December 28, 1894: Ford, Writings of Jefferson, VI, 517.

³⁸ To William B. Giles, December 17, 1794: Ibid., 515.

view that the troubles over the excise were due to opposition to Hamilton's policy, but that Hamilton misled the President into believing that it was an attack on the Constitution. He said by this course Hamilton intended to lead Washington into an unpopular course and thereby introduce absolute power under the pretext of giving energy to the government. This, Fauchet said was the origin of the expedition into Western Pennsylvania. He declared that Hamilton had made a nation of stock-jobbing, speculating, selfish people. Wealth was the only consideration. But this depravity did not extend to the masses of the people.³⁹ This incident is merely mentioned to show how the political aspect of Hamilton's policy permeated all the circles of government from the highest to the lowest.

The excise was a direct tax of the most objectionable kind. It was hardly in accord with American ideals, at the time, to have a host of supervisors, inspectors, collectors, markers, and checkers prying into the private affairs of individuals. It was necessary for the government to raise an additional revenue, and the excise as an internal tax would be an important assertion of power. Once carried into effect, it would be an element of per-

³⁹ A good account of this entire affair is found in Hildreth, History of the United States, IV, 516-519; 556-561.

manent strength to the central government. It required a corps of several hundred officials to execute the law. All these had an official interest in supporting the government, and through their relationships no doubt served to diffuse a spirit of federalism throughout the Union. In the exercise of their duties these officials must have brought the weight and influence of the government to bear more directly than ever before on the people. Lodge, who was ever the sympathetic biographer of Hamilton, said that, "It was part of the general scheme, economic and political; it was a bold and perhaps a perilous move leading to grave consequences."⁴⁰ Whether Hamilton intended that this measure should bring the weight of the government home to the people or not, is not significant. The results were the same.

With the development of the fiscal system, the task of erecting a governmental structure was all but concluded. True, much remained to be done, some of it by other hands; but the machinery of an intricate political organization, part of it without counterpart in the Old World, was in motion, and men of vision and faith were persuaded that it would not fail.

But if the Fathers believed that a successful revolution was sign and seal of their independence of European affairs, they were

⁴⁰ Lodge, Works of Alexander Hamilton, 97.

foredoomed to disappointment. The success of the American war was scarcely assured when the French Revolution broke out. The movement found ardent sympathizers in America. But it was fraught with a more practical significance for the new government. It compelled immediate consideration of matters of foreign policy on which party sentiments were sharply divided. We shall now see how the neutrality policy became one of the heated political issues of the time.

CHAPTER XI

THE NEUTRALITY STRUGGLE

1. Sentiment

The conflagration which broke out in France in 1789, and which had inflamed the whole of Europe by 1793, had its influence on American politics. The Republicans were ardent supporters of France. The Federalists were just as devout in their leanings towards England. To the Republicans, the French Revolution was a struggle for liberty and equality, but to the Federalists it was anarchy and "mobocracy." But the revolution turned into a great European war, and the forces which caused it were turned from their courses. It is intended here to deal only with the American attitude towards the Proclamation of Neutrality rather than to trace the struggle to its conclusion.

In 1789, the question came up in Congress as to whether or not the United States should discriminate in her import duties in favor of the nations with which she had treaties. England furnished the greater part of American imports, and discrimination against her in favor of other nations with whom the United States had little commerce complicated the problem. The House

passed a bill in favor of such discrimination, but the Senate refused it. Madison urged the bill, and insisted that the House should stand by its vote. But the bill was defeated. Ames said Madison was a little intemperate about the matter, and that the papers would not understand the merits of the question. It was intended to favor the French and discriminate against the English.¹

Ames said it was proposed to wage a commercial war on England. Such a war would not injure her, but would irritate her. France would not be benefitted, and the Treasury would lose considerable revenue. He said it would be an insult to England and an empty compliment to France.²

The Virginians were strong for restrictions on the British trade. They were in debt to the British and would have been glad to quarrel with their creditors, according to Ames. "But are we Yankees invulnerable, if a war of regulations should be waged with Britain? Are they not able to retaliate? Are they not rich enough to bear some loss and inconvenience?" He declared the policy of the United States should be one of a dignified neutrality.³ It is clear that Ames believed it better to submit

¹ Ames, Works of Fisher Ames, I, 57-58.

² Ibid.

³ Ibid.

to the indignities of the British concerning commerce than to antagonize her by a vindictive policy.

Another incident showed the early division of sentiment in Congress towards France. Upon the death of Franklin, the French eulogies were sent to Congress. They were so coolly received by the Senate that Maclay debated with himself about rising and claiming one of the twenty-six copies for himself. He refrained from doing so only because it would have caused a wrangle.⁴

A month later Congress received a decree of the National Assembly ordering three days mourning for Franklin. But it was

. . . received with a coolness that was truly amazing. I cannot help painting to myself the disappointment that awaits the French while their warm fancies are figuring the raptures that we will be thrown into on receipt of their letter and the information of the honors which they have bestowed on our countryman, and anticipating the complimentary echoes of our answer when we, cold as clay, care not a fig for them, Franklin, or freedom. Well, we deserve--what do we deserve? To be d----d!⁵

In reply the Senate merely acknowledged receipt of information so highly satisfactory. The reply of the House was warmer.

The sentiment in the United States was well divided on the question of the French Revolution before it ever changed into a

⁴ Maclay, Journal of William Maclay, 350.

⁵ Ibid.

war involving England on the one side and France on the other. As the revolution resolved itself into a reign of terror and involved most of the important countries of Europe, sentiment in the United States grew more intense and the two parties became clearly divided on the question of the attitude of the United States government towards the English and the French. After the Proclamation of Neutrality was issued on April 22, 1793, the fight became more bitter.

The division of opinion in the United States was not merely a preference between the "Old Regime" and the revolutionary forces in France. Immediately after the execution of Louis XVI, Oliver Wolcott wrote to his father criticizing the drastic policy of the revolutionists.

Chauncey Goodrich said "The event of the death of Louis . . . is a wanton act of barbarity, disgraceful even to a Parisian mob," and Oliver Wolcott, Senior, "felt a heart-felt sorrow at the murder of Louis."⁶ It is astonishing at the familiarity with which these New Englanders wrote about "Louis."

⁶ Gibbs, Administrations of Washington and Adams, I, 90-91.

2. Arguments

After the Proclamation of Neutrality was issued on April 22, 1793, John Quincy Adams was the first to come to its defense. Under the name of "Marcellus" he took a firm stand in favor of neutrality. He condemned privateering and "hoped that this violation of the laws of nature and nations" would never be carried out. True to the Federalist ideals of property rights, he declared that "the plunder of private property, the pillage of all regular rewards of honest industry and laudable enterprise, upon the mere pretense of a national contest, to the eye of reason and justice, can appear in no other light than that of highway robbery." In some cases, he admitted, it might be justifiable, but not in this one. He declared that those who wished "to obtain a license for rapine" showed "that it is only the lash of the executioner that binds them to the observance of their civil and political duties."⁷

In his second letter,⁸ Adams declared that an impartial and unequivocal neutrality was the duty of the United States unless she were bound to one of the parties by an existing contract. He declared that the natural relationship of nations was a state of peace, and that the United States was bound to both England

⁷ Ford, Writings of John Quincy Adams, I, 136-138.

⁸ Columbian Centinel, May 4, 1793.

and France by treaties "to observe the laws of peace with their different governments." He made no distinction between the treaty of alliance with France and the peace treaty with England. Neutrality was dictated, too, by the vast distance of the United States from Europe.

"In the general conduct of all the commercial European nations, the advantages which will be thrown into our hands, and the activity and vigor which will be given to every branch of our commerce, are too obvious to need any discussion." The necessities of the belligerents would increase as their supplies decreased, and the profits which the United States would reap would be limited only by her capacity to supply their demands. But to become a party to the European war would be a violation of political duties, a departure from the principles of national justice, and an express violation of the treaties with the belligerent nations.⁹

In criticizing those who favored France, Adams said: "A system, which professing to arise from an extraordinary attachment to the cause of Liberty and Equality, may in reality be traced to the common sources of private avarice, and private ambition, perhaps at once the cause and effect of an implicit devotion to France, and an antipathy to England, exceeding the limits

⁹ Columbian Centinel, May 4, 1793.

of a national resentment." He declared that these men would have nothing to do with arguments derived from natural justice, and that their answers were always "The Rights of Man" and "Liberty and Equality."¹⁰

In his third letter,¹¹ Adams denied that the United States was bound by the treaty of alliance to take the part of France even if Great Britain should attack the French West Indies. He declared that the course of human events had totally absolved, or at least suspended, that obligation. His arguments were as follows:

1. The guarantee of the French West Indies was made to his 'Christian Majesty,' and that that office and all of its agents had been abolished.
2. Even though the French should establish the Republic on a firm basis, the binding effect of the treaty would still be doubtful. Admitted that it was a principle of international law that treaties survived revolutions, there were exceptions. He took as an example the Constituent Assembly which he said formally denied the obligation of any compact contrary to the natural rights of man. He laid down the principle on which Hamilton based his argument that the treaty of alliance was in effect abrogated.
3. What were the intentions of the parties to the guaranty clause of the treaty of alliance and what were the duties under it? In this case even treaty stipulations could not bind a nation to support the folly or injustice of the other party to such a treaty. He declared that the administration of France after the revolution was such a case.

¹⁰ Columbian Centinel, May 4, 1793.

¹¹ Ibid., May 11, 1793.

4. The French government had rendered the fulfillment of the obligations of the United States under the treaty impracticable. To take the part of France would be to unite all the rest of Europe against the United States. This would mean inevitable ruin and destruction. We are therefore commanded by a law, which supercedes all others, by that uncontrollable law of nature, which is paramount to all human legislation, or compact, to remain at peace, and to content ourselves with wishing that laureled Victory may sit upon the sword of justice, and that smooth success may always be strewed before the feet of virtuous Freedom.

The most powerful defense of the policy of neutrality came from Hamilton in eight articles published in the Gazette of the United States in the summer of 1793.¹² The attack, he said, was not to bring about a free discussion of an important measure, but to weaken the confidence in the executive (administration) and to prepare the way for a successful opposition to the government.

He classified the objections to the Proclamation of Neutrality under four headings:

1. The President did not have the authority to issue the proclamation.
2. It was contrary to the treaty with France.
3. It was contrary to the feeling of gratitude the people should have toward France for her aid during the Revolution.
4. It was untimely and unnecessary.

¹² Lodge, Works of Alexander Hamilton, IV, 432-489.

He started out by defining neutrality, and by process of elimination arrived at the conclusion that the executive department was the only one which could possibly deal with the question. In regard to the second objection, he argued that the treaty was a defensive alliance and was effective only when one of the allies was attacked. To aid France, he declared, would be to interpret the treaty as both offensive and defensive, and this was contrary to its terms.

Hamilton denied that the United States owed any gratitude to the French people for their aid during the American Revolution. France merely saw a good chance, which she had been looking for since 1763, for revenge against England. "The animosity of wounded pride, conspired with the calculations of interest, to give a keen edge to that impatience, and to that desire." Their motives were to embarrass an enemy rather than to help a friend. They refused to help the United States openly until her hopes of success were good. Here Hamilton was inconsistent as this is the argument he used in Letter III as nullifying the obligation of the United States to France. He and John Quincy Adams both argued that the impossibility of French success discharged any obligation of the United States to aid France. After having denied that the United States owed any gratitude to the French

people, and after showing that the conduct of their foreign affairs was based on selfishness, Hamilton, very inconsistently again, rushed to the defense of Louis XVI as a magnanimous king. Here is a tacit admission of the preference of the Napoleon of Federalism for the old monarchy over the democratic strivings of the people of France. This is the point on which the Republicans parted ways with the Federalists. His arguments on this point may be summed up in one sentence: France embraced a most promising opportunity to diminish the power of her most dangerous rival, and the success of her undertaking was adequate compensation for her efforts.

Hamilton's fourth argument was that the Proclamation was justified because the maritime powers had become involved.

3. Abuses

Opposition to the French Revolution was strong in the ranks of the Federalists. This offered the Republicans an opportunity to play up monarchy and convert the national bias into a party instrument. Newspapers and pamphlets teemed with charges against the Federalists as trying to introduce a system of government similar to that of England. John Adams' Defense of the Constitution was in reality a defense of the British system and, with

other writings of its kind, gave grounds for such accusations.

Genet strengthened the Republican attitude in exposing the Machiavellian policy of the old monarchy by showing its opposition to the growing power and ambitions of the United States, the desire of France to exclude the United States from the Mississippi, and the opposition of France to the adoption of the American Constitution. This was to gain friends for the new Republic and discredit the friends of the old monarchy, and finally to bring the United States into the war. It was pointed out in Genet's instructions that if the United States government should prove unmanageable, he should use the same method France used in Europe--to sever the people from their constituted authority.¹³

In "The Conspiracy of Kings, A Poem addressed to the Inhabitants of Europe from another quarter of the World," Joel Barlow attacked the rulers of the coalition against France as follows:¹⁴

Think not, ye knaves, whom meanness styles the
Great--
Drones of the Church and harpies of the State--
Ye, whose curst sires, for blood and plunder fam'd,
Sultans or kings or czars, or emp'rors named,
Taught the deluded world their claims to own,
And raised the crested reptiles to the throne.
Ye, who pretend to your dark host was given

¹³ Gibbs, Administrations of Washington and Adams, I, 96.

¹⁴ Joel Barlow, The Political Writings of (New York, 1796), 241.

The lamp of life, the mystic keys of heaven;
 Whose impious arts, with magic spells began,
 When shades of ign'rance veil'd the race of man.

Think not I come to crook with omen'd yell
 The dire damnations of your future hell.

I know your crusted souls!

This sentiment represents the extreme element of the Republicans. To them, the struggle in France represented the strivings of democracy against the abuses of the old privileged orders. Barlow's writings were popular with the liberals in England where he was at the time. Far more important was his Advice to the Privileged Orders, attacking the abuses of the time. Fox eulogized this tract in the House of Commons, but it was suppressed by the government. Barlow's papers were seized, and he fled from England.

Another writer of the most extreme element of the Republicans was Thomas Paine.¹⁵ Referring to the Federalists, he declared that a faction acting in disguise was rising in America. It had lost sight of first principles and was beginning to contemplate government as a profitable monopoly, and the people as hereditary property. He said that was why they attacked his

¹⁵ Thomas Paine, Letters to the Citizens of the United States (London, 1841), 4-5.

Rights of Man which was identical in principles with his Common Sense. They were repudiating the principles of the American Revolution. "The government of England honoured me with a thousand martyrdoms, by burning me in effigy in every town in that country, and their hirelings in America may do the same." This violent partisanship colored all foreign relations with the powers at war in Europe and, no doubt, determined the attitude of both factions irrespective of other considerations.

Even the cautious Madison considered the Proclamation an error. He said:¹⁶

It wounds the national honor by seeming to disregard the stipulated duties to France. It wounds the popular feelings by a seeming indifference to the cause of liberty. And it seems to violate the forms and spirit of the Constitution by making the Executive Magistrate the organ of the disposition, the duty, and the interest of the Nation, appropriated to other departments of the Government.

The spirit of the times was characterized as follows:

"What hugging and tugging! What addressing and caressing! What mountebanking and chanting, with liberty caps and the other wretched trumpery of sans culotte foolery . . . Such was the state of parties in the summer of 1793."¹⁷

Jefferson thought a "manly neutrality" instead of a mere

¹⁶ Madison, Letters and Other Writings, I, 579-580.

¹⁷ Alexander Graydon, Memoirs of His Own Time (Philadelphia, 1846), 335.

"English neutrality" should have been adopted. But the situation was soon changed. When the privateers which Genet had fitted out came sailing back into American ports with their booty, international complications began. Madison thought Genet should be set right or his policy would do mischief which could not be repaired. Jefferson said his conduct placed the United States in a "most distressing dilemma." It was necessary to choose between their regard for France and their regard for the maintenance of their own laws.¹⁸

Genet had landed at Charleston and proceeded to Philadelphia. Everywhere he was greeted with demonstrations and applause. He was offered 600,000 barrels of flour at prices lower than it would sell for elsewhere.¹⁹ He was also offered many other articles by the farmers and merchants. John Adams later wrote that enthusiasm for Genet and the French Revolution was almost universal throughout the United States, and that in Philadelphia the rage was irresistible. All the popular men of Pennsylvania were for war with England and alliance with France. He said that Washington recognized the fact that the tide of public sentiment was

¹⁸ Ford, Writings of Thomas Jefferson, III, 557.

¹⁹ National Gazette, May 18, 1793.

turned against Genet by the writings of John Quincy Adams.²⁰

"A Citizen" said these men who opposed the war of the French people against despotism were devoid of every sense of gratitude. They were vile speculators interested in public funds, and in the support of every measure of the government whether right or wrong. They were "harpies" grown fat on the hard-earned dues of the war-worn patriots. He said it was impossible for any friend to republican government to oppose the French Revolution. He was very sarcastic about the "Tender hearted creatures" who were so sympathetic towards Louis XVI.²¹

The above writer declared that the fate of the United States depended upon that of the Republic of France. He recalled that England was holding the frontier posts in violation of the treaty, and was supplying the hostile Indians with arms as well as robbing the United States of the fur trade.

"Veritos" declared that the Proclamation broke the treaty with France and was not consistent with either duty or interest. He said that,²²

With our duty it cannot accord, so long as we pretend
to any faith as a nation or remember with gratitude

²⁰ E. M. Cunningham, Correspondence between the Honorable John Adams and the late William Cunningham (Boston, 1823), 35-37.

²¹ National Gazette, May 18, 1793.

²² Ibid., June 1, 1793.

the circumstances under which our treaties with France were concluded and the generous exertions of that nation in the cause of American liberty. If it be the duty of a free nation to forget these friends to whom she is in a great measure indebted for a national existence; to view with cold indifference the struggle of those very friends to support their own liberties against an host of despots; and in spite of the reciprocal ties of national treaties to treat an inveterate and cruel enemy with the same friendship as our best and most faithful ally--if such be the duty of Americans, as declared in the proclamation, then is that proclamation to be regarded as disgraceful to the American character.

Again "Veritos" criticized the government's attitude towards England as cowardly. "For ten years has that haughty nation held possession of posts in open violation of treaty, as if we were tributary provinces." He said England also seized American vessels bound for France though they carried no contrabands of war, and that these things should be sufficient proof of the hostile intention of Great Britain.²³

"Juba" criticized Washington for calling on the Supreme Court for an interpretation of the treaty with France instead of calling on "the representatives of the people." He thought a "certain great man" who directed the movements of the executive, though he was not an officer of the people, feared that Congress would not agree with his policy. He could not understand why the government was in such an uproar because the French had fitted out

²³ National Gazette, June 8, 1793.

the Little Sarah in Philadelphia, but had nothing to say about the British armaments made there or the multiplied insults which the American flag suffered from pirates under the British colors.²⁴

The matter of neutrality was not so much one of principles as one of preference. From 1789, when the question of titles was brought up in Congress, the Republicans attacked everything that had any semblance of monarchy or royalty. In 1793, one writer declared the levees held by Washington to be "the legitimate offspring of inequality, begotten by aristocracy and monarchy upon corruption." He said the idea was introduced by William Duer, but that the people were waking up to these tendencies toward monarchy and aristocracy.²⁵

"Peter Porcupine" (William Cobbett) said the democrats were berating the satellites of royalty for carrying on a crusade against liberty when the truth was that liberty was crusading against royalty. But liberty to the democrats meant slavery, robbery, murder, and blasphemy. He said they let loose the dogs of war at everything that bore the name or mark of royalty.²⁶

²⁴ National Gazette, July 27, 1793.

²⁵ Ibid., February 2, 1793.

²⁶ William Cobbett, A Bone to Gnaw for the Democrats (Philadelphia, 1795), 13-14.

He declared that "your majesty" and "My Lord" were as offensive to the ears of the Republicans as silks, gold lace, and powdered periwigs were to their eyes. The only titles were to be citizen and citess and the dresses were to be a la mode de Paris.

Porcupine quoted a song by Joel Barlow which he said was sung at Hamburg by the French and Americans on July 4, a part of which was as follows:²⁷

God save the Guillotine,
Till ENGLAND'S KING and QUEEN,
Her Power shall prove:
Till each anointed knob
Affords a clipping job,
Let no vile halter rob,
The Guillotine.

When all the SCEPTERED CREW
Have paid their homage, due
The Guilliotine,
Let freedom's flag advance,
Till all the world like France,
O'er tyrants graves shall dance
And peace begin.

Porcupine declared that "could this innocent, this virtuous, this injured prince [Louis XVI], now behold the ungrateful hellhounds, that, from all quarters of the world, assail his reputation, would he not exclaim, like Caesar when he saw the dagger of his beloved Brutus,--AND YOU TOO AMERICANS?"²⁸

²⁷ Cobbett, A Bone to Gnaw for the Democrats, 16.

²⁸ Ibid., 18.

There was no end to the vigilance of the Republicans. An English tavern keeper who had put up the picture of the Queen of France to attract customers was forced to cut off the head and stain her garments with blood. A church was forced to remove the "image and crown" of George II as soon as possible. In Charleston, the Democrats had cut down the statue of Lord Chatham and boasted that they had severed the head from the body.²⁹

Even the stage did not escape political entanglement. Hodgkinson brought endless trouble on himself by getting tangled up in the discussions on the street. Once he wore an English costume, as the part required, but the vigilant defenders of France ordered him to remove it. Instead of explaining the part, he said he represented a coward and a bully. This appeased the French faction but offended the English. He tried to explain it away in the newspapers but only made it worse.³⁰

The theaters came to range themselves along party lines. The Boston Theater was Federalist and catered to their support, while a new theater called Haymarket was built to cater to the Republicans. The French enthusiasts demanded the "republican tune" of Caira be played at performances, and often the auditorium rang

²⁹ Cobbett, A Bone to Gnaw for the Democrats, 19-20.

³⁰ D. C. Hazen, Contemporary American Opinion of the French Revolution (Baltimore, 1897), 248.

with the Marseillaise. "Tammany," one of the earliest American operas, and one that enjoyed great popularity, was a political work and distinctly republican. The Federalists said it was "melange of bombast" seasoned highly "with spices hot from Paris," and that the audience was made up of poor mechanics and clerks.³¹

A pamphlet entitled United Irishmen aroused Porcupine because of its demand for liberty for the Irish. In regard to the demand for suffrage, he declared, "This is the master wheel in the machine of reformation, as it transfers the power from the hands of the rich into the hands of the poor." He stated the obvious, that the Irish wanted the vote in order to help themselves financially. The French Revolution was for the purpose of plunder, he said, and the demands of the Irish "must ever end, as in France, in the ruin of the rich, and its inevitable consequence, universal poverty."³² Porcupine later founded a gazette and his works include many volumes, most of which were propaganda in favor of Great Britain. His writings were abusive, and especially his attacks on the slaveholders of the South went beyond the bounds of decency.

³¹ Hazen, Contemporary American Opinion of the French Revolution, 248.

³² Cobbett, A Bone to Gnaw for the Democrats, Part II, 8-11.

4. The Democratic Societies

A more organized form of opposition to the Federalist tendencies was found in the Democratic Societies. The first one was founded in Philadelphia in 1793 and was modelled on the Jacobin Club in Paris. Its stated purpose was "to cultivate a just knowledge of rational liberty, to facilitate the enjoyment and exercise of our civil rights and to transmit unimpaired to posterity the glorious inheritance of a free Republican government." It declared its sole object to be the public good. Its fundamental principles were: first, the right of the people to make and alter their forms of government; and, second, to support the Constitution of the United States and of Pennsylvania. It was declared to be the duty of every citizen to study, and to discuss without fear the conduct of the public servants.³³

The organization provided for one society in Philadelphia and one in each county in the state. Meetings were to be held on the first Thursday in every month. In Philadelphia, meetings were held almost weekly. Its officers were a president, two vice-presidents, two secretaries, a treasurer, and a correspondence committee of five whose duty was to keep in touch with the

³³ Principles, Articles, and Regulations Agreed upon by the Members of the Democratic Society of Pennsylvania, May 30, 1793. (In the Library of Congress.)

societies in the counties, and to bring the results before the society. David Rittehouse was the first president, and Benjamin Franklin Bache, editor of the Aurora, was a member of the correspondence committee.³⁴

These resolutions brought the partisan nature of the political battle clearly to the front. They declared that the combined powers of Europe were making war on France to change her internal government, and that it was not a war solely against France, but a war against liberty. It was resolved they ought to resist all efforts to alienate their affections from France and to connect them more intimately with Great Britain.

The Whiskey Rebellion brought the Democratic Societies more clearly into the political arena. In his annual message to Congress on November 19, 1794, Washington attacked these societies and a congressional debate followed on the subject. Both the Democratic and the German societies denied any connection with the Whiskey Rebellion, although both regarded the excise as unconstitutional and dangerous. Evidence was lacking that these societies were responsible for the insurrection, but the Federalists tried to use this as an excuse to break them up. The President's message set all the societies against him.

³⁴ Principles, Articles, and Regulations Agreed upon by the Members of the Democratic Society of Pennsylvania, May 30, 1793. (In the Library of Congress.)

These clubs were widely organized in Pennsylvania and the South. Probably the most radical one was the Democratic Society of Wythe County, Virginia. It declared the European war to be one of tyrants against liberty. "If all tyrants unite against free people, should not all free people unite against tyrants? Yes! Let us unite with France and stand or fall together." This society criticized the President for appointing John Jay, then Chief Justice of the Supreme Court, to make the treaty with England. It contended that this was a union of the executive and judicial departments and was dangerous to the constitutional liberties of the people. The way to correct these evils was to "elect men who have no distinct interests from that of the people."³⁵

The attitude of the Federalists towards these clubs was well expressed by Fisher Ames. He declared that right-minded men despised them. "They poison every spring; they whisper lies to every gale; they are everywhere, always acting like Old Nick and his imps. Such foes are to be feared as well as despised . . . They will be as busy as Macbeth's witches at the election, and all agree that the event is very doubtful." They were "demonical" clubs and were "nurseries of sedition."³⁶

³⁵ Independent Chronicle, August 11, 1794.

³⁶ Seth Ames, Works of Fisher Ames, I, 148.

5. Jefferson's Report on Commerce

Another controversy was over the British regulations, as they affected American commerce. The Navigation Acts of 1661 and 1663 had not been repealed, but the privileges prohibited by these acts had been extended to the United States from year to year by executive proclamation. This was not satisfactory to the United States and, as a method of relief, Jefferson proposed the removal of these restrictions by friendly arrangements if possible. If this could not be done, then the United States should retaliate by restrictions on British trade. On December 16, 1793, Jefferson made his report on commerce; and on December 30, he submitted a supplemental report showing that the French and Spanish had relaxed some of the restrictions mentioned in the report.³⁷ On the next day he resigned.

Madison, believing that the nature and importance of American commerce entitled it to a better standing, introduced a series of resolutions in the House in accordance with Jefferson's report. These resolutions called for an increase in duties on tonnage of vessels, and on certain articles of nations having n commercial treaties with the United States. They also called for increased

³⁷ American State Papers: Foreign Relations, I, 306.

duties on imports from the West Indies by foreign vessels from ports from which Americans were excluded.³⁸ Madison thought it was time for the United States to take steps to promote the objects for which the government was, in a large degree, instituted. He thought this necessary in order to meet those nations who would not meet the United States on terms of reciprocity.

Smith of South Carolina opened the debate against the resolutions. He declared the United States' commerce was treated as well by England as by France, and that the privileges of trade with the West Indies offered by Genet was the price of entering the war. The object of the resolution, he said, was not to encourage manufactures of the United States, but to turn the trade from Great Britain to France. He challenged Jefferson's statement that England was not disposed to negotiate. Great Britain had been selected for attack because it was "most in unison with our passions to enter into collisions with her." He thought the resolutions would lead to war.³⁹

Madison replied to Smith's argument that the failure of the government after 1783, to counteract the foreign policy resulted

³⁸ Annals of Congress, IV, 155-156.

³⁹ Ibid., 174-209.

in the establishment of a government competent to regulate commerce and vindicate its commercial rights. Four years had passed and no treaty was in sight, he said. The American ports admitted goods of all nations in British vessels, but American ships could carry into British ports only American commodities, and from the West India ports they were entirely excluded. Madison declared the measure was intended to relieve America from commercial dependence. He did not believe England would retaliate.⁴⁰

Madison based his contention that reciprocity could be obtained on the fact that Pitt had brought a bill into the House of Commons for the purpose, and that it would have passed but for the fact that a new hope sprang up that they could maintain the old system. This hope was based on a report by Knox, an Under Secretary and chief adviser to the cabinet. His arguments were as follows: first, that Nova Scotia and Canada would soon be able to feed the West Indies and make them independent of the United States; second, that the government of the United States was so weak that it could not execute retaliatory restrictions; third, that the local interests and prejudices among the states was so great that they would never agree on making an attempt at retaliation.⁴¹

⁴⁰ Annals of Congress, IV, 209-225.

⁴¹ Ibid., 224.

The debate in Congress continued for several weeks consuming most of the time. The British were accused of inciting the Indians to depredations, letting loose the Algerians on American commerce, refusing to fulfill the treaty and so on. Personal invectives were hurled back and forth. At one time the first resolution passed. After thirteen days of almost continuous debate, an effort was made to vote on the bill. The result was a postponement and nothing ever came of the bill.

The difficulties over neutrality do not end here. But a crisis in which America might have been involved in a second war with England, or in which she might have strengthened her commercial independence twenty years earlier than she did, had passed.

With the future questions of American neutrality we are not concerned here. The Federalists in this case, as in all others, argued specific advantages for each phase of their policies. These advantages were for the most part real, but the Republicans opposed them with all their might. This opposition was based, not so much upon the effects of the various measures in other respects as to their tendency to lend dignity and power to the federal government, as will be shown in the following chapter.

CHAPTER XII

CENTRALIZATION

1. Tendency towards Centralization

The effects of Hamilton's plan to assume the state debts were readily perceived by the opposition.

The public creditors, who are in general the most opulent and influential part of the community, would, by this means, be detached from the interest of the state governments, and united to that of the General Government, so far as those interests may be diverse from each other. This would increase the comparative weight and influence of the General Government, and proportionally diminish the comparative weight and importance of the particular states.¹

It was declared by the same writer that it was intended to perpetuate a large debt in the hands of a few in order to destroy the equality among citizens which was essential to republican government.

A few weeks later an unsigned article in the New York Daily Advertiser declared that "The Gladiators of the Secretary" in their private instructions for the coming struggle had been instructed in the tendency of Hamilton's plan to strengthen the Union and weaken the states. It was the purpose of the "Secretary

¹ The Herald of Freedom and the Federal Advertiser (Boston), February 9, 1790.

to have the management of all the resources of the states." This would happen and it would be "the crisis to seize the revenues of the states, and probably their government and liberties. This certainly would be the consistent policy of those who foster the twin bastards CONSOLIDATION and ASSUMPTION." It was avarice more than political wisdom which urged immediate assumption of the state debts.²

From the side of the administration came the same idea.

Oliver Wolcott, Junior, writing to his father said:

I can consider a funding system as important, in no other respect than as an engine of government. The only question is what that engine shall be. The influence of a clergy, nobility and armies, are and ought to be out of the question in this country; but unless some active principle of the human mind can be interested in support of the government, no civil establishments can be formed, which will not appear like useless and expensive pageants, and by their unpopularity weaken the government which they are intended to support . . . Duties on most of the articles imported ought to be imposed for political considerations, even though the money were to be buried.

He was for assumption of the state debts that the government might touch all Americans and make them conscious of its existence.³ Wolcott was at that time Auditor of the United States. He later became Comptroller, and finally succeeded Hamilton as

² The New York Daily Advertiser, March 10, 1790.

³ Gibbs, Administrations of Washington and Adams, I, 43. (March 27, 1790).

Secretary of the Treasury.

A little later Wolcott wrote that the assumption was the only cement with which to bind the Union together. It was necessary for the existence of the national government. If the state governments were permitted to provide for their debts, they would forever oppose any national provision for them as inconsistent with their local interests. It would "render the states very refractory. A rejection to provide for the State debts . . . I consider as an overthrow of the national government." He also desired a direct land tax which would affect every man of property. Unless there were direct taxation, "the people in general in this country will not have the least apprehension of the existence of a national government, and consequently have no regard for it."⁴

Stone of Maryland in the House of Representatives declared that assumption might be used to bribe the states, but he opposed it as tending to annihilate the state governments. It had not been contemplated in the Constitution and would be an accumulation of power in the hands of the national government. He observed, "that this business would probably terminate in the

⁴ Gibbs, Administrations of Washington and Adams, I, 45 (April 23, 1790).

abolition of the State governments, as being altogether superfluous."⁵

Sedgwick in the House thought that all men of intelligence contemplated the adjustment of the state debts as indispensable to the preservation of the Union, and that "Whenever that desirable object was obtained, the state debts, which were the individual claims of the states, must be annihilated, that therefore the evil contemplated, if it was such, must eventually take place."⁶

Vining in continuing the debate believed assumption would operate unequally, "but when I consider it in a more national point of view, as diffusive of general advantages, and favorable to, perhaps the permanency as well as the interest of the union, I am compelled to yield small local regards to a more enlarged and extensive policy."⁷

"A Friend to Union" lamented the attitude of those who thought they were having too much consolidation of power. "These writers have little affection for union or a strange apprehension of futility when they represent consolidation as worse than schism or no union at all." They were, he said, great admirers

⁵ Quoted in The National Gazette, March 13, 1790.

⁶ Ibid.

⁷ Ibid.

of the French revolution.⁸

The opposition to centralization was strong enough to make Fisher Ames despair.

I do not believe that the hatred of the Jacobites towards the house of Hanover was ever more deadly than that which is borne by many of the partisans of State power towards the government of the United States. I wish I could see in Congress a spirit to watch and to oppose their designs; but we are surrounded by men who affect to think it a duty, and who really think it popular, to take part with those who would weaken and impede the government . . . I see how much power this government needs, and how little is given; how much is done and contrived against it; how much it ought to do, and yet how little it does, or is disposed to do, or capable, to do; how few, how sleepy, how obnoxious its friends are, and how alert its foes. An immense mass of sour matter is fermenting at the southward.⁹

But the opposition to centralization was not confined to the South. Oliver Wolcott writing from Philadelphia declared that the Northern states, and the commercial and moneyed people were zealously for the government. But in Pennsylvania a great part of the population was gathered from all the nations under heaven. Their zeal for liberty and envy induced them to oppose every measure of government. "If they were a compact, uniform body of people, governed by the same passions and sympathies, and had their present disposition to advise, they would be

⁸ The National Gazette, March 19, 1792.

⁹ To Thomas Dwight, January 23, 1792, in Ames, Works of Fisher Ames, I, 110.

formidable" If the same sentiment had prevailed in the South, he would have thought them on the eve of rebellion. But "The new . . . excise will put them upon their mettle as a considerable number of officers will be necessary to operate all over the country."¹⁰

Opposition to strengthening the national government was also found in New England. The General Court of Massachusetts failed to cede the lighthouses to the United States and forbade the keeper of the one at the entrance of Boston harbor to receive any directions or pay from the federal officers. John Quincy Adams declared that the hostility of the state and national governments was "increasing with accelerated rapidity." He could "hardly conjecture what the event will be when two authorities exist and neither supreme. Conflict will probably soon come and suppress one."¹¹

Hamilton was usually cautious in his writings and to have stated his purpose to strengthen the national government at the expense of the states would have been very poor judgment. But from his action and the results of his measures, we may conclude that he had not changed his mind concerning a statement made much

¹⁰ Oliver Wolcott to his father, February 12, 1791, in Gibbs, Administrations of Washington and Adams, I, 62.

¹¹ Ford, Writings of John Quincy Adams, I, 50 (April 15, 1790).

earlier. On January 30, 1783, in a debate on the revenue bill, Hamilton gave as one reason for having the duties collected by officers under Congress that the energy of the federal government was not sufficient for pervading and uniting the states, and that it would be expedient to introduce the influence of officers paid by, and consequently interested in the power of Congress. Madison made a note that this remark was imprudent and injudicious as this was the very source of jealousy which rendered the states averse to a revenue levied and collected by Congress. All the members who opposed the bill smiled at the disclosure and Bland and Lee in later conversation remarked that Hamilton had let out the secret.¹² Hamilton's policy was always in keeping with this sentiment.

Wolcott, more or less typical of the Federalists, decided that New England was a model society. "It is my sober opinion, that the hopes of mankind as they respect the essential success of the republican system depend chiefly on the conduct of the people of New England." He wrote Noah Webster to induce him to write a book on the "philosophical, historical and political views of the manners, customs, and institutions of New England."

¹² Writings of James Madison (by Order of Congress, 1865), I, 291.

He wanted to stabilize New England against the "dangerous ambitions" of other sections.¹³ In his numerous letters Wolcott praised the prosperity and happiness of New England, and reiterated his belief in the efficacy of the New England system.

Again Wolcott wrote that the opposition to the measures of the administration was "hostile to every system of government." He could account for this opposition only by the pressure of the foreign debts owed by the Virginia planters.

The prospect of poverty and dependence on the Scotch merchants is what they cannot view with patience. They seem determined to weaken the public force, so as to render the recovery of these debts impossible . . . No rational attempt to support the existing systems ought to be omitted. The experiment of a union with the southern states ought to be now made conclusively; if it shall prove unsuccessful we ought to part like good friends, but the separation ought to be eternal. The inevitable danger, loss of property, interruption of industry, and painful anxiety, which are inseparable from revolutions, forbid the repetition of another experiment.¹⁴

Again over a year later, Wolcott reverting to the same subject declared the debts of the Southerners had been one of the causes of the American Revolution and had ever since "operated to obstruct its benefits, by opposing compulsive energy of government."

¹³ Gibbs, Administrations of Washington and Adams, I, 99 (to Noah Webster, May 20, 1793).

¹⁴ To Oliver Wolcott, Senior, February 8, 1793, in Ibid., I, 86.

He said it was a combination of the wicked and the weak and that they talked much of war as though it was almost inevitable.¹⁵

If we may trust a memorandum whose close secrecy denotes importance, the Union's permanency was seriously threatened. This memorandum was made by John Taylor, Senator from Virginia, for Madison. It was kept by Madison, given to his wife, and later fell into the hands of her nephew, James Madison Cutts, from whose widow it was secured about 1905.¹⁶

A few days after Taylor had made a bitter speech in the Senate advocating suspension of payment of British debts, he had declared his intention to resign and go home. King invited Taylor into a conversation and told him that it was impossible for the Union to continue. He said that when Izard and Smith of South Carolina were out, the South would prevail and that the East would never agree to that. It would be better, he said, that a dissolution should come through mutual consent. Ellsworth came in as if by accident, but Taylor thought it was all prearranged. King explained it all and Ellsworth agreed. King pressed the importance of agreeing to a boundary between the two sections. Many other questions were discussed but "nothing being

¹⁵ To Oliver Wolcott, Senior (April 5, 1794), in Gibbs, Administrations of Washington and Adams, I, 134.

¹⁶ John Taylor, Disunion Sentiment in Congress in 1794 (Edited with and Introduction by Gaillard Hunt, Washington, 1906).

concluded upon the conversation ended." Taylor was thoroughly convinced that a design to break the Union was contemplated. He communicated the matter to Madison. Taylor believed there was more back of this than appeared on the surface. He thought a British interest was at the bottom of it.

Cabot and Strong of Massachusetts, Ellsworth of Connecticut, and King of New York (born in Massachusetts where he remained until 1788) formed a clique to rule the Federalists in the Senate. They backed the commission to England in 1794 when it appeared there would be a war, and were exasperated at Taylor and Monroe because they opposed Jay as a commissioner and wished to sequester the British debts. Madison thought King and Ellsworth meant to warn Taylor that a continuation of the policy of the Republicans would lead to disunion. King and Ellsworth were in close cooperation with Cabot and Strong. The action of Cabot as chairman of the Hartford convention and of Strong as Governor of Massachusetts in 1812, when he resisted the order of the President in calling for the Massachusetts troops lend color to Taylor's suspicions.

Regardless of how we may wish to interpret this incident, it certainly shows that the two contending factions were becoming desperate, and that the efforts of one of them to strengthen, and

the other to weaken the national government were in the background of the whole struggle.

2. Principles of the Revolution Discarded

The revolutionary period required a philosophy of government to justify rebellion against the mother country. The Revolution had been social as well as political, and the philosophy of the period was that of the most radical elements. Many of those who took part in the Revolution were inclined to favor strong government and when the enthusiasm of the Revolution had died away, these, and many others, embraced principles which they thought necessary to the establishment of a strong national government. One group developed which was willing to abandon the theories of the Revolution, and to establish a strong national government which, in their opinion, was essential to the welfare of the nation. The other group, more reluctant to abandon the principles of the Revolution, feared placing too much power in the hands of the central government.

The Constitutional Convention was in striking contrast to the democratic enthusiasm of 1776. The "excess of democracy" with its "levelling spirit" was substituted for a government strong

enough to meet the economic difficulties which brought political disintegration under the Articles of Confederation. But the two groups previously mentioned were divided on how far this centralization should go. Even if the majority had favored the adoption of the Constitution, the fight was resumed in reality when the time came to put it into effect by passing the laws necessary to its operation and maintenance.

Those who were suspicious of the strengthening of the central government were made more so by the writings of John Adams. His theories were contained in A Defense of the Constitutions of the United States and the Discourses of Davila. The latter appeared in the Gazette of the United States in the summer of 1790. These articles grew out of the French Revolution whose principles became deeply abhorrent to Adams.

These works betray Adams's distrust in unlimited democracy. His purpose was to show that powerful factions were the death of a state unless they were restricted in their activity by the government. He also defended aristocracy on the basis that an equilibrium should be maintained between the different factions. He was as distrustful of the people as he was a king. He declared that abstract equality did not exist separate from individual interest and advantage, and that democracy was not desired for itself, but

for the advantages it would bring with it.

Adams's bitter invectives against "unlimited democracy," and his friendly attitude towards monarchy brought the charges that he was opposed to democratic institutions. While Adam's DEFENCE was written in a reply to Turgot's attack on the American plan of government, it was accepted by Republicans as an attack on democratic institutions and a defense of aristocracy. These writings tended to line up those who were opposed to aristocracy and strong centralized government into a solid rank.

Jefferson saw in Paine's Rights of Man a counteracting influence to Adams's works. Jefferson's note of endorsement was printed along with the pamphlet, although he had not intended that it should be. This brought Jefferson and Adams face to face in warring camps. Paine's pamphlet was in answer to Burke's Reflections on the French Revolution, and it had had a sale in England of over a million copies in a very short time.¹⁷

The battle between Burke and Paine was transferred to the political arena in America where John Quincy Adams, under the pen name of Publicola, took up the gage of battle against Paine. His articles, originally published in the Columbian Centinel of

¹⁷ Laurence M. Larson, History of England and the British Commonwealth (New York, 1924), 584.

Boston, were run in the Gazette of the United States in the summer of 1791. In these articles, Adams not only refuted Paine's arguments, but also bent all efforts to discredit the French Revolution with the American people.

"Agricola" in answer to Publicola's articles wrote that he knew a man "who possessed the esteem and confidence of a free, generous, Patriotic people . . . and was raised by their general voice, to an office of high dignity and trust in the government . . . but [who] under a fictitious name, employed his whole force of art, of genius and erudition to collecting and pouring forth floods of heretical, aristocratical doctrines in direct opposition to the free and equal principle of the very government which he administered" ¹⁸ He no doubt thought, as many others did, that the articles were written by the Vice-President.

Adams denied Paine's statement that "whatever a nation chooses to do, it has a right to do." "Agricola" had a very decided opinion on this matter.

Let those who sigh for monarchy and pant after aristocracy, court the munificence of princes and prop the tottering thrones of Kings. Let them weep of the

¹⁸ Gazette of the United States, July 23, 1791.

dying image of royalty--but let the independent sons of America blow the trumpet of freedom, and proclaim to the world their liberty and happiness. The unshaken faith of these, is, that all power is originally inherent in the people, and that whatever governments are not founded on their authority alone, and instituted by them for their peace, safety and happiness, are not free but usurped, and that they therefore have and in 'contempt' of Kings, Princes, and the whole group of aristocrats, will, exercise the right of establishing government in such manner or form as they think proper for securing the blessing of freedom.¹⁹

Even in 1802, Paine could not forget John Adams's "paradoxical heresies." His "Defence" had "descended to the tomb of forgetfulness, and the best fortune that can attend its author is quietly to follow its fate."²⁰ He says Adams criticized his Common Sense in 1776 because it attacked the English form of government. "John was for independence because he expected to be made great by it; but it was not difficult to perceive . . . that his head was as full of kings, queens, and knaves, as a pack of cards. But John has lost deal."²¹

Numerous articles appeared in the newspapers on both sides, but the chief results were to convince the Republicans that the Federalists were defenders of monarchy and aristocracy. Their chief concern was, of course, that the Federalists would try to

¹⁹ Gazette of the United States, July 23, 1791.

²⁰ Paine, Letters to the Citizens of the United States, Letter II, 67.

²¹ Ibid., 8-9.

transform the American government to accord with these ideals.

But let us see other actors a little closer to the helm of state. On August 26, 1792, Washington had written Jefferson and Hamilton to try to compose their differences. Hamilton in his reply declared that "there was a formed party deliberately bent upon the subversion of measures, which in its consequence would subvert the government . . . and that all possible pains were taking to produce that effect by rendering it odious to the body of the people." He considered it his duty to resist the torrent and "to draw aside the veil from the principal actors."²²

Jefferson too was in a fighting mood. He declared in his reply to Washington that Hamilton's principles were adverse to liberty and calculated to undermine the republic. Their object, Jefferson said, was to draw all the power into the hands of the central government and, by corrupt control of Congress, subvert step by step the principles of the Constitution. Jefferson's closing remark shows the sincerity of opposition to Hamilton, and his determination to fight. "I will not suffer my retirement to be clouded by the slanders of a man, whose history, from the

²² Hamilton to Washington, September 9, 1792, in Sparks, Writings of Washington, X, 516.

moment at which history can stoop to notice him, is a tissue of machinations against the liberty of the country, which has not only received and given him bread, but heaped its honors on his head."²³

As Jefferson well said, "this was not merely a speculative difference." In the colonial period, the local assemblies were the depositaries of whatever rights and liberties the masses had. The assemblies were the checks on royal and proprietary governors and councils. That faith was transferred to the state legislatures and remained there until the adoption of the Constitution. The preference that power remain in the state governments was nothing less than a continuation of the colonial ideal of local self-government. That this was the faith of the majority is conclusively shown by the sweeping victory over the Federalists as soon as Jefferson had them organized to present a solid front. This, too, it will be remembered, was at a time when a great body of the masses was still disfranchised.

This political feeling of the masses of the people had been endeared to them as their refuge against arbitrary power, and made more hallowed by the perils and triumphs of the Revolution. The fear of a strong central government was based on its inherent

²³ Jefferson to Washington, September 9, 1792, in Sparks, Writings of Washington, X, 518-525.

possibilities for tyranny. This caused the Republicans to oppose many measures which they would otherwise have supported.

The views of the masses was well expressed in a letter to Governor Bowdoin of Massachusetts, September 3, 1785, from that state's delegates in Congress. The Massachusetts Legislature had adopted a resolution urging Congress to recommend conventions of the states to revise the Articles of Confederation. The letter in part was as follows:

The great object of the Revolution was the establishment of good government, and each of the States, in forming their own as well as the Federal constitution, have adopted republican principles. Notwithstanding this, plans have been artfully laid and vigorously pursued, which, had they been successful, we think would have inevitably changed our republican governments into baneful aristocracies . . . 'More power in Congress' has been the cry from all quarters, but especially of those whose views, not being confined to a government that will best promote the happiness of the people, are extended to one that will afford lucrative employment, civil and military. Such a government is an aristocracy which would require a standing army and a numerous train of pensioners and placemen to prop and support its exalted administration . . . These are pleasing prospects which republican governments do not afford . . . We are for increasing the power of Congress as far as it will promote the happiness of the people; but at the same time, are clearly of the opinion that every measure should be avoided which would strengthen the hands of the enemies of free government²⁴

²⁴ Quoted in Martin Van Buren, Political Parties in the United States, 42.

This letter was signed by Gerry, Rufus King, and Samuel Holton, and shows the fear which the Republicans retained for a long time that the republican principles for which the Revolution had been fought might be defeated through granting too much power to the central government.

The Federalist party was in power because it wisely sponsored the adoption of the Constitution. It had the Constitution, control of the government, and the influence of Washington to its credit to begin with. It might have retained control of the government had it chosen to interpret the Constitution in the light in which it was accepted by the people when it was adopted. The Federalists forgot "that the Constitution itself had been extorted from the grinding necessity of a reluctant nation." It did nothing to soothe the feelings of its defeated enemies, and did much to arouse their suspicions.²⁵

Jefferson and Hamilton did not differ on the objects at which they aimed. Each stood for what he thought was the best interests of the nation. They did differ as to how these aims should be attained, and this difference of opinion arose mainly over their conflicting estimates of the capacity of the people for self-government. Here they were diametrically opposed, and here

²⁵ Quoted in Martin Van Buren, Political Parties in the United States, 61-63.

was the basis on which the party battle was to be fought out. These differences represented irreconcilable theories as to the administration of the government. There was no middle ground, and one or the other had to be adopted as the rule of action for the government.²⁶

The best and most far-reaching example of the efforts of the Federalists to extend the powers of the central government beyond the expressed limits of the Constitution is found in the doctrine of implied powers. That a motion was made and refused in the Constitutional Convention to delegate to Congress the power to grant charters of incorporation was called to Washington's attention by Jefferson in his opinion on the bank question. This doctrine was certainly not intended by the makers of the Constitution, or if it was, it was one of the most artful tricks ever played on any people. It was so well hidden that nobody challenged it, and it is more than probable that had such an interpretation been given, the Constitution would never have been ratified. The honor of those who made the Constitution will not sustain the idea of such political trickery.

Morse gives a good summary of the principles along which the

²⁶ Van Buren, Political Parties in the United States, 71.

party lines were drawn. In many important respects, the policy of the Federalist party ran counter to the predilections of the majority of the American people. In the first place, its avowed tendency to nationalize the Union offended those who still believed in the sovereignty of the individual states. In the second place, the energetic use which the government made of its powers, had a like effect. In the third place, the financial policy of Hamilton was obnoxious because it established an alliance between the government and the owners and managers of capital, and thus threatened to bring into politics the corrupting influence of a "money power." In the fourth place, the neutrality proclamation was unpopular because the people loved France and hated England. Finally, the aristocratic tone of the administration was in conflict with the social movement of the times, and gave color to the opportunity to pose as the defenders of the Constitution against those who had taken the leading part in framing it and in securing its adoption.²⁷

With the unfolding of the Federalists' policies, those whom it displeased began to draw together and act in common. At first this was prompted more by instinct than by calculation and was

²⁷ A. D. Morse, Political Science Quarterly (1891), VI, No. 4, 593-612.

irregular and ineffective. But by the end of 1793, under Jefferson's leadership, it became organized and formidable. But this was only the formal organization. The roots lay deeper. The opposition to the immediate policies of the Federalists was the fruits of political theories developed from the founding of the colonies. These theories held that citizens have equal civil and political rights, and that government should be controlled by the people, and not by the privileged classes.²⁸

The cruel treatment of the loyalists during and after the Revolution was evidence of the hatred against aristocracy. They were hated not simply because they were loyalists but because they were aristocrats who favored establishment of the English system of aristocracy. With the excesses after the war, democracy became discredited, and the Constitution was the first fruits of this reaction. It was adopted and inaugurated on the same wave of reaction. But the body of the people still remained democratic. The alarm over the undemocratic trend of the Federalist policies, and the sympathy with the French Revolution revived American democracy and provided the stimulus for party battles.²⁹

²⁸ Morse, Political Science Quarterly, VI, No. 4, 597.

²⁹ Ibid., 598-599.

It is impossible to formulate in systematic order the theories of either Federalists or Republicans. The Federalists regarded themselves as the champions of law and order. They were afraid of social upheavals, and looked to the Constitution as a means of securing strong government for the protection of property rights. To them democracy was the greatest evil of the country, and the excesses under the Articles of Confederation brought them to believe in the need of strong government for safety.

The Republicans regarded themselves as the friends of liberty, and looked upon the Federalists as monarchists who were ready to subvert the Constitution to whatever purpose they wished to use it. They thought the Federalists wished to revive royalty and nobility by assuming high-sounding titles, observing stately ceremonies, setting up splendid government, and by parade and pageantry to establish a ruling class. They therefore opposed all official levees, large civil and military establishments, extravagance, and burdensome taxes as a means of oppression of the people. Jefferson's aim was to establish political democracy. He believed the people would take care of themselves while Hamilton believed the people could only be governed by force or by appeal to interest.

The political battle which took place over the inauguration of the new government was based on the opinion as to how much

democracy there should be, and was given greater impetus by the hope for both sectional and class advantage.

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